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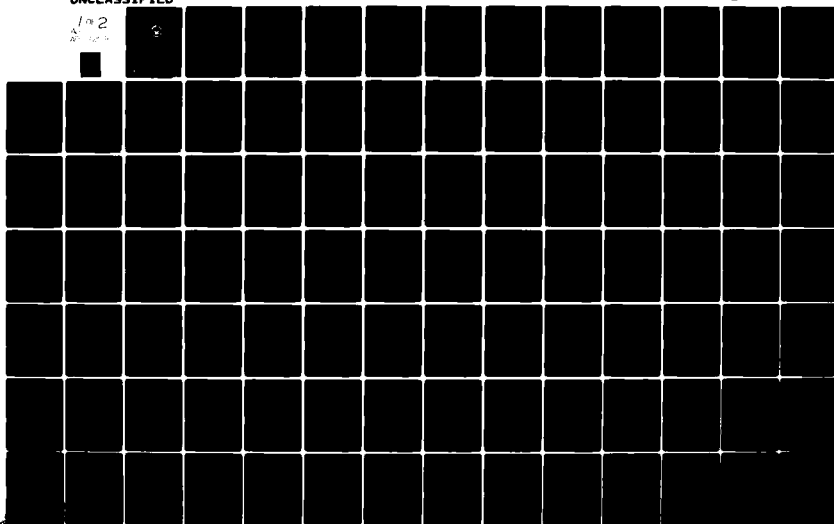
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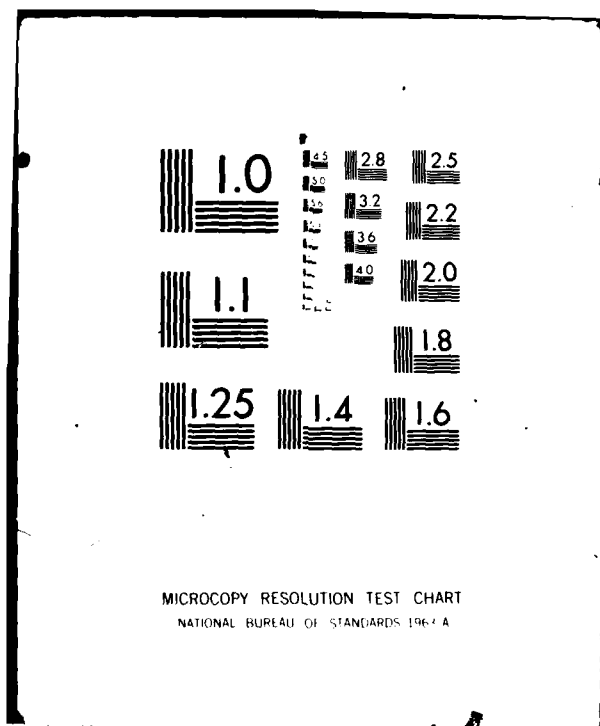
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AN ANALYSIS OF DOD'S STANDARDS OF CONDUCT
APPLICABLE TO PERSONNEL ASSIGNED
TO THE CONTRACTING ARENA,

by

Paul S. Maruszak

December 1980

Thesis Advisor:

M. L. Sneiderman

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REPORT DOCUMENTATION PAGE		READ INSTRUCTIONS BEFORE COMPLETING FORM
1. REPORT NUMBER	2. GOVT ACCESSION NO. AD-A097259	3. RECIPIENT'S CATALOG NUMBER
4. TITLE (and Subtitle) An Analysis of DOD's Standards of Conduct Applicable to Personnel Assigned to the Contracting Arena		5. TYPE OF REPORT & PERIOD COVERED Master's Thesis; December 1980
7. AUTHOR(s) Paul S. Maruszak		6. PERFORMING ORG. REPORT NUMBER
9. PERFORMING ORGANIZATION NAME AND ADDRESS Naval Postgraduate School Monterey, California 93940		8. CONTRACT OR GRANT NUMBER(s)
11. CONTROLLING OFFICE NAME AND ADDRESS Naval Postgraduate School Monterey, California 93940		10. PROGRAM ELEMENT, PROJECT, TASK AREA & WORK UNIT NUMBERS
14. MONITORING AGENCY NAME & ADDRESS (if different from Controlling Office) Naval Postgraduate School Monterey, California 93940		12. REPORT DATE December 1980
		13. NUMBER OF PAGES 183 pages
		15. SECURITY CLASS. (of this report) Unclassified
		16a. DECLASSIFICATION/DOWNGRADING SCHEDULE
16. DISTRIBUTION STATEMENT (of this Report) Approved for public release; distribution unlimited		
17. DISTRIBUTION STATEMENT (of the abstract entered in Block 20, if different from Report)		
18. SUPPLEMENTARY NOTES		
19. KEY WORDS (Continue on reverse side if necessary and identify by block number) Standards of conduct, ethics, conflict of interest, gratuities		
20. ABSTRACT (Continue on reverse side if necessary and identify by block number) The standards of conduct, DOD Directive 5500.7, establish the basic guidelines for ethical behavior for all Department of Defense (DOD) personnel. Based on the author's review of literature and interviews conducted with Federal law enforcement agencies, the standards are adequately doing their job, prescribing the required standards of ethical conduct. As a means to continue to accomplish this task and enhance its role, a "Study Guide of Ethics and Standards of Conduct" has been		

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An Analysis of DOD's Standards of Conduct
Applicable to Personnel Assigned
to the Contracting Arena

by

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Submitted in partial fulfillment of the
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ABSTRACT

The standards of conduct, DOD Directive 5500.7, establish the basic guidelines for ethical behavior for all Department of Defense (DOD) personnel. Based on the author's review of literature and interviews conducted with Federal law enforcement agencies, the standards are adequately doing their job, prescribing the required standards of ethical conduct. As a means to continue to accomplish this task and enhance its role, a "Study Guide of Ethics and Standards of Conduct" has been developed for use by procurement personnel. The study guide amplifies the major areas of the standards through the use of lectures, group discussions and relevant case examples. Its purpose is to keep the standards fresh in the minds of procurement personnel and relevant to the ethical challenges they may encounter.

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I. INTRODUCTION

Executive Order 11222 clearly states the Government's policy of ethical conduct for Government officers and employees:

Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or advisor of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

In government procurement, situations are likely to arise which involve ethical decisions. It is sometimes extremely difficult to distinguish the illegal gratuity from the innocent social favor. On account of this difficulty, among others, it is important that Government personnel know what the proper recourse is and moreover, what action they are required to take in accordance with the statutes and regulations that affect procurement.

Standards of conduct for Government personnel have evolved over many years. The current standards are contained in a large body of Federal laws, executive orders, departmental directives and agency regulations. The Department of Defense (DOD) Directive 5500.7 entitled, "Standards of Conduct," sets forth standards of conduct for all DOD personnel, both military and civilian regardless of assignment. This directive covers such areas as bribery, graft, gratuities,

contributions to superiors, use of Government facilities, outside employment, and conflict of interest. The various military departments followed the DOD Directives with their own implementing instruction. SECNAV Instruction 5270.2G entitled, "Standards of Conduct," prescribes the standards of conduct for Department of Navy (DON) personnel.

The DOD Directives are applicable to all DOD employees. However, standards of conduct for DOD procurement personnel assume a position of great trust and responsibility when they handle the expenditure of large amounts of public funds. Are the standards of conduct sufficient to provide the necessary guidance to prevent conflicts of interest violations? It is this question that this paper intends to examine further.

A. OBJECTIVES

The objectives of this research effort are to examine and analyze the current DOD and Department of Navy standards of conduct applicable to procurement personnel; to determine if these standards provide the necessary guidance to prevent conflicts of interest between private interests and Government procurement personnel; and to produce a standards of conduct study guide if deemed necessary by research.

B. RESEARCH QUESTION

The General Accounting Office (GAO) estimated that as much as \$40 billion dollars may be lost to dishonest and

and corrupt actions in the United States annually. According to Justice Department files, these corrupt actions against the Government rank as the fourth most common crime in America [1:39]. This combined with various GAO reports of waste, fraud and abuse in the Government makes one question whether the standards of conduct are sufficiently meeting the Government's needs.

GAO has established a nationwide telephone hotline to report waste, fraud and abuse in the Federal Government. Of the 12,000 calls received, GAO has determined that more than 2,000 of these allegations were serious enough to warrant agency investigation. Of the allegations leveled against the DOD, most involved procurement irregularities [1:41].

DOD currently has in effect the earlier mentioned DOD Directive 5500.7 which prescribes the standards of conduct relating to possible conflicts of interest between private and official duties. It is the hypothesis of this paper that DOD's standards of conduct fail to provide the necessary guidance to prevent conflict of interest violations from developing.

In order to properly address this problem, the following research question is presented: Does DOD's standards of conduct really provide the necessary guidance to prevent conflicts of interest? Subsidiary to the basic research question is the following question:

Can a study guide be developed to amplify the standards so that they are more relevant to the daily ethical challenges found in DOD procurement?

C. SCOPE

The thrust of the research is directed at determining the adequacy of the standards of conduct as they relate to DOD procurement personnel. It is also intended to provide a working knowledge of the standards of conduct through the use of an author developed study guide.

D. ASSUMPTIONS

It is assumed that the reader has a working knowledge of DOD procurement including the requirements found in the Defense Acquisition Regulations (DAR) and also an understanding of the statutes and regulations that affect the procurement process. Additionally, it is assumed that the reader has a basic familiarity with the ethical situations that DOD procurement personnel are likely to encounter.

E. LIMITATIONS

It must be acknowledged that this study did not utilize a questionnaire due to one of the basic problems of ethical behavior: one perceives the ethical behavior of others in a clear right or wrong situation, whereas, one most always perceives or rationalizes one's own actions as being mostly ethical. In the author's opinion, the use of a questionnaire

would not have provided a true picture of ethical behavior on the part of DOD procurement personnel. Rather, only a rationalized or distorted picture would have been presented.

F. METHODOLOGY

Standard research procedures were used in the preparation of this paper: literature search and personal interviews. The initial literature search revealed a myriad of professional articles, both DOD and civilian, which attested to the need of ethical behavior in the procurement arena. Among these, there were a number of articles and reports which indicated that the standards of conduct were not being properly followed as intended.

Although these articles and reports indicated a problem which is the main thrust of this research paper, a very limited amount of information is available relating training to the standards to DOD personnel as a possible solution to the problem. Only the GAO, in a general sense, has consistently recommended in its audit reports on waste, fraud, and abuse that steps should be taken to make DOD employees more aware of the problem.

Following the initial literature search, personal interviews were conducted, both with Government and civilian industry personnel, in order to obtain information that would answer the basic and subsidiary research questions. Sources of information include:

1. Local Government procurement personnel
2. Government and legal personnel in the San Diego area
3. Representatives of the Office of Government Ethics
4. Representatives from civilian industry

G. KEY DEFINITIONS/ABBREVIATIONS

Definitions and abbreviations are contained in Appendix A.

H. ORGANIZATION

Following the "Introduction" are chapters on the "Framework" (Chapter II), placing perspective on this research area in respect to the ethical environment of both Government and civilian industry; and "Background" (Chapter III), providing the reader with, essentially, a chronological progression of the development of Standards of Conduct in the Government up through and including the impact of the "Ethics in Government Act" of 1978. "Analysis of DOD's Standards of Conduct" (Chapter IV) analyzes the current standards of conduct and the problems experienced by Government procurement personnel in this area. "Study Guide of Ethics and Standards of Conduct" (Chapter V) is a presentation of an author prepared study guide with Chapter VI presenting the study's conclusions and recommendations.

II. FRAMEWORK

This chapter provides a conceptual approach to the Department of Defense's (DOD) ethical environment and the relationship it has with the commercial marketplace.

A. PREFACE

The American public has become increasingly uneasy in recent years about the moral and ethical practices of many Government officials. This new awareness is the result of a series of disclosures and discoveries made during the past few years chiefly, although not exclusively, through a number of Congressional investigating commissions, including those of the General Accounting Office (GAO).

The Federal Government's budget, now over \$500 billion annually, is rife with vulnerable areas in which waste, fraud, abuse and other related white collar crimes have the potential to exist. According to the GAO, Federal programs involving grants, contracts, and loan guarantees are exploited through such means as:

- false claims for benefits and services
- false statements to induce contracts or secure goods or services
- bribery or corruption of public employees and officials
- false payment claims for goods or services not delivered
- collusion involving contractors [12:i-vii]

The full extent of these illegal acts against the Government is unknown. Oftentimes they are hidden within apparently legitimate transactions and usually go unreported and/or undetected. The Department of Justice believes that the incidence of these acts in Federal programs accounts for anywhere from one to ten percent of the programs total expenditure [12:i-vii]. This percentage could actually be higher since both the Department of Defense and the Federal Bureau of Investigation will not normally investigate white-collar crimes of less than five thousand dollars [11].

B. GOVERNMENT ETHICS ENVIRONMENT

Despite these recent disclosures and discoveries, the general level of conduct on the part of most Government employees appears to be relatively high. The majority of them are honest and want to do a good job. As a general statement, Government employees, especially those in acquisition, work extremely hard for far less pay than their counterparts in private industry. The situation and circumstances surrounding the acquisition of Government goods or services from private industry, are often quite different from those experienced by private industry in the procurement of its own needs. Government employees are "private keepers of the public interest." They are responsible for the proper expenditure of these funds. Often in their attempt to do an effective job, i.e., get the best goods or

services for the best price, they are bitterly attacked by various interest groups which are seeking to obtain a competitive advantage. These interest groups are often able to influence Congressional legislators to insure a continuation or at least a share of the Government procurement funds. It is not the intention of this thesis to criticize these various groups, only to point out that such conditions exist and sometimes affect contracting personnel's desire to make an effective purchase.

Interwoven with Congressional legislation to insure fairness to all interest groups are general statutes and DOD directives and instructions which amplify this desire by Government to be a fair and an impartial buyer. The standards of conduct exemplify this desire to be impartial by attempting to completely eliminate any possibility of a conflict of interest.

C. THE DOD'S RELATIONSHIP WITH THE COMMERCIAL MARKETPLACE

The DOD contracting officer is placed in situations daily where he or she must make decisions concerning the award of contracts to commercial companies. How these decisions are made is rigidly regulated by a detailed set of policies and procedures contained in the Defense Acquisition Regulations (DAR). Although the DAR contains most every eventuality that may be faced by a contracting officer, there are still some decisions that must be based

on personal knowledge and/or intuition. In these situations the influence brought to bear by an outside private interest could lead the contracting officer to make decisions in favor of a specific bidder. It is for this reason, among others, that the DOD has adopted standards of conduct for its personnel. The standards of conduct increased the emphasis placed on conflict of interest and acceptance of gifts and gratuities because these are the most significant problem areas DOD employees who deal in procurement circles have to face.

There is a need for a standards of conduct, or more basically, a need for a strong moral and ethical foundation in DOD employees, especially those assigned to procurement activities. The reason for this need is obvious; public interest and the daily expenditure of large amount of public funds. Sole source procurement is one area where the public may perceive an apparent conflict of interest violation. It is difficult for the public to view DOD as an impartial buyer when contracts for millions of taxpayer's dollars are going to a single defense contractor. Unless contracting officers are able to emphatically demonstrate that the contract negotiations are being conducted at arm's length, the public will tend to believe that their conduct is less than ethical.

III. HISTORICAL BACKGROUND

This chapter presents a chronological background of the developments in the policies, procedures, and regulations that lead up to the Department of Defense (DOD) standards of conduct as they are today.

A. INTRODUCTION

People have attempted to influence and control their behavior by establishing standards or codes of conduct almost since the beginning of time. These standards of ethical behavior have been promulgated in the United States in the form of Executive orders, Federal laws, Government department policies, directives, agency instructions, etc., and have been provided in both written and unwritten form. The first and certainly the most lasting set of ethical rules is the Ten Commandments. These ten laws set forth the basic behavior and moral climate for man to follow. They are the foundation for many of the legal statutes that regulate man's life today and are in the author's opinion the very basis for the moral code by which man's behavior is measured.

In the past, some of the behavior standards were only applicable to a limited number of people but nevertheless had a significant impact on the overall behavior standards. Such was the case of the standards of conduct developed

during the feudal period by the gallant knights of England. Their medieval Code of Chivalry prescribing standards of courage, nobility, fairness, courtesy, respect for women, protection of the poor, etc., continue to influence the behavior and conduct of man even today. Shakespeare once described these knights as "the mirrow of all courtesy." This is but one of the many historical examples that could be cited of man's attempt, both successful and unsuccessful, to regulat his or her behavior. This, however, sets the tone for the more recent efforts to prescribe standards for individual conduct or behavior.

B. LEGISLATIVE/JUDICIAL BACKGROUND: 1800-1950

The first concrete attempt to legislate standards of conduct in the United States occurred during the mid-1950's. Prior to this period public morality in federal positions was, for all intent and purposes, unregulated. The level of public morality was low and was fed by the political spoils system. The beneficiaries of the spoils system regarded their jobs and the various spoils they received as legitimate rewards for service to the party.

The only means of controlling the party "in office" prior to 1850 was by the "out of office" party raising a fuss through the newspapers of the massive corruption going on in the government. This method was far from successful and oftentimes only resulted in the "outs" becoming the

"ins" with the same scenario repeated [2:29-30]. This wasteful system brought an untrained mass of workers and featherbedders from Cabinet members down to clerks, into the government, with every change in the administration.

In 1853, the Uncompensated Assistance to Claimants Act was passed by Congress. This Act prohibited government employees, other than in the discharge of their duties, from assisting in any manner, in the prosecution of a claim against the government. The prohibition applied whether or not the employees received compensation for their services to the claimant and also forbid the employee from receiving any gratuity or interest in a claim in return for assisting in prosecuting it. The Act, however, failed to cover members of Congress, who were the principal offenders. It was not until nine years later, in 1862, that the act was extended to cover members of Congress. The 1862 extension also made it illegal for a government employee to render services in any matter in which the government is a party or is directly or indirectly interested [2:36-39].

Another statute was passed in 1862 to combat dealings between contract personnel and prospective bidders. This law entitled, "An Act to Prevent Members of Congress and Officers of the Government of the United States from taking Consideration for Procuring Contracts, Office, or Place from the United States," prohibited a Federal employee from accepting payment for obtaining a government contract.

Conversely, it penalized any person who made such a payment. This problem had been a major abuse of government contract procedures for many years and had been accentuated by increasing contract requirements as a result of the Civil War. Another problem in addition to public employees assisting contractors in obtaining government contracts was that many procurement officials were dealing with companies in which they had a personal interest or ownership. The Disqualification Act of 1963 resolved this problem of personal interest. It provided that a public employee was prohibited from acting as an officer or agent for the government, in the transaction of business with any business or firm of which he is an officer or in which he has a pecuniary interest [2:41-43].

Another problem in this area was how to handle the post employment activities of government employees. Two statutes were enacted by Congress, one in 1872, The Civil Post Employment Statute, and the other in 1944, The Criminal Post-Employment Statute. The 1872 Act prohibited, for a period of two years after leaving office, any former government employee from acting as counsel, attorney, or agent in the prosecution of claims if that claim was pending in any department during their employment. The substance of the provision is still contained in Section 99 of Title 5 [4:10]. The 1944 Act, also included the same two year waiting period, but in addition expanded the Act in three main areas. It provided a criminal penalty to the law; it covered all

agencies of the Federal Government, not just "departments;" and it used, as a test for claims covered, the relationship between the employee's duties and the claim, not just the time when the claim became pending [2:50-51].

The final statute of these seven statutes which form the base for the standards of conduct legislation and regulations that exist today was passed in 1917. Entitled, "Outside Compensation," the provisions of the Act were fairly simple. It prohibited any government employee from receiving any salary in connection with his government employment from any non-government source. In addition, it prohibited others from making any contributions to, or in any way supplementing, the salary of any government employee for services performed by him for the government [2:53-55].

The passage of the Civil Service Act in 1883 brought an end to the period of the political spoils system and established in its place a merit system for the recruitment and retention of Federal employees [20:1056]. This merit system provided a foundation for the emergence of a large Federal Government in the early 1930's as it permitted the hiring of many unemployed who were victims of the Depression. It soon became evident to Congress that the verbiage of legislation prescribing standards of conduct was unable to resolve the ethical problems being created by the expanding number of full time professional employees. In the professional environment the government's standards of conduct

had to be of the highest order if the public confidence was to be maintained in the government.

C. THE PERIOD OF FINAL DEVELOPMENT: 1950-1970

In response to the increased requirement of professionalism in the government, Congress, in 1958, passed as a concurrent Resolution 175, the Code of Ethics for Government Service (See Appendix B). This Code of Ethics contained ten provisions, three of which pertain directly to conflict of interest [20:1072]. These three provisions were aimed primarily at three kinds of misconduct; real or apparent. The basis for this belief was derived from the following: [2:196]

1. Persons occupying a position inside government must not be allowed to tamper with the wheels of government to the special advantage of themselves or any entity on the outside in which they have a personal economic interest.
2. Persons occupying a position inside government must not be allowed to help an individual or entity on the outside, where the latter is seeking to make the wheels of government move in a particular way.
3. Persons occupying a position inside government must not be allowed to use their office as a source of power or of confidential information for the purposes of advancing their personal economic interests.

The next significant event in the evolution of government standards of conduct was the result of a 1961 Supreme Court decision. The case, United States vs. Mississippi Valley Generating Company, (better known as Dixon-Yates) is a landmark decision in the conflict of interest area. Basically the case involved a suit against the government by Dixon-Yates

over the cancellation of a contract. The Government's defense against the suit was based on the grounds that an investment banking officer, acting as a consultant to the Bureau of the Budget, could have influenced decisions regarding the financing of the project to the extent that his employee (the bank) might have derived a profit. It is interesting to note that the investment officer's position was fully disclosed and known to the Government officials engaged in the contract negotiations [2:127-128]. The Supreme Court ruled that:

The basic conflict of interest statute (18 USC 434) provides that it is a crime, punishable by fine and/or imprisonment, for a person who while directly interested in the...profits or contracts of any... business entity...acts as a ...agent of the US for the transaction of business with such business entity. The moral principal upon which the statute is based has its foundation in the Biblical admonition that no man may serve two Masters. (Matt. 6:24). This maxim is especially pertinent if one of the masters happens to be self-interest. Moreover, the statute does not specify that there by any loss suffered by the government as a result of the conflict of the...conflict of interest. This omission indicates that the statute establishes an objective standard of conduct, and that whenever a government agent fails to act in accordance with that standard he is guilty of violating the statute regardless of whether there is positive corruption. The statute is thus directed not only at dishonor, but also at conduct that tempts dishonor. It is more concerned with what actually happened. It attempts to prevent honest government agents from succumbing to temptation by making it illegal for them to enter into relationships which are fraught with temptation [15:2].

There were many who disagreed with the Supreme Court decision and who felt it was unduly severe. Those in disagreement felt there was no evidence of injury to the public interest,

especially since the investment officer's position was fully disclosed to the government, and therefore the government should not have been allowed to cancel the contract [23:43].

The Dixon-Yates decision established a tough line in the area of conflict of interest in relationship with government. This decision eliminated the need to speculate about what was the intent of a public official. All that was necessary was to prove officials had an interest, financial or otherwise, in the business firm with which they were dealing. Thus any subjective determination concerning conflict of interest is removed and the decision becomes simply an objective one based on the facts of the incident.

In 1961, President Kennedy, shortly after taking office, made ethical reform as one of the primary goals of his administration. Kennedy stated, in a speech before Congress, there is no responsibility of government more fundamental than the responsibility of maintaining the highest standards of ethical behavior among those who conduct the public business [22:611]. The answer to this problem, of course, is the recruitment of honest people. Since this is not entirely possible it is necessary to have formal regulations which establish clear policy guidelines, punish venality and double dealing and set the ethical tone for the conduct of government business [22:611]. It soon became clear that the conflict of interest statutes then in effect did not

come anywhere near meeting the objectives established by President Kennedy. The conglomeration of conflict of interest legislation that had been passed previously was conflicting and inadequate for enforcement purposes and did not establish the guidance for the high ethical standards that were being demanded or expected from government employees. As a result of this inadequacy and in keeping with the goals of the Kennedy Administration, Public Law 87-849 was passed by Congress in 1962.

This new law took the laws that had been codified under Section 18, U.S. Code and created a new chapter covering Bribery, Graft and Conflict of Interest. The old chapter of the code was revised, reorganized, and new sections were added to create a more manageable and meaningful chapter on ethical conduct. With the new emphasis on conflict of interest, the law gave enforcement personnel a whole set of legal weapons with which to deal with the standards of conduct violations. But more importantly, the law stated a code of ethical standards for government instructions or documents that would establish specific ethical standards [4:15].

The next significant event dealing with the standards of conduct occurred during the administration of President Lyndon B. Johnson. Executive Order 11222, prescribing Standards for Ethical Conduct for Government Officers and Employees was released by the White House on May 10, 1965.

This order incorporated the provisions of PL 87-849, the concurrent congressional resolutions and additional recommendations from a 1960 study prepared by the New York Bar Association. The executive order was applicable to every individual officer, employee and advisor of the Executive Branch of the government. It was considerably more strict than anything prevailing in the Legislative or Judicial branches of the government and clearly established standards of conduct relating to:

1. Acceptance of gifts, favors, entertainment, loans or any other thing of monetary value
2. Use of public office for private gain
3. Giving preferential treatment to any organization or person
4. Impeding government efficiency or economy
5. Losing complete independence or impartiality of action
6. Making government decisions outside of official channels
7. Actions affecting the confidences of the public or integrity of the government [10:1]

This executive order also established requirements for government employees in high paying positions to submit personal statements of financial interests. Authority to enforce this order within the Executive Branch was given to the Civil Service Commission (CSC). The authority granted the CSC included the power to check on compliance by the agencies and their employees. Although this was not the first executive order issued prescribing standards of

conduct for government employees it was the first to accomplish the following:

1. The executive order was made applicable to all government employees in all departments and agencies of the Executive Branch.
2. The order tied together all phases of ethical conduct for government employees.
3. The order gave enforcement responsibilities for the Executive Branch to a single agency.
4. It instituted the financial reporting requirement for top government officials [23:64].

These were major improvements in the much discussed and over-regulated area of ethical conduct.

In accordance with the requirements of Executive Order 11222 the Department of Defense (DOD) began revising its DOD Directive 5500.7, Standards of Conduct. This directive had been initially issued in 1963 following the passage of PL 87-849 called the "Freedom of Information Act." The revised directive, including the provisions of President Johnson's Executive Order first appeared in March 1966 and was again revised in August 1967.

On July 4, 1966, Congress enacted a statute which was to have, and still has, significant impact on the standards of conduct. Public Law 89-487 provided a means for any member of the general public to obtain Executive Department records. The "Freedom of Information Act" (FOI) superseded a prior statute (5 USC 1002) which, although it had been established for the same purpose in 1946, had allowed the

government to impede rather than promote the public access to Executive Department records [18:909].

The 1946 law, which was replaced by FOI, allowed each agency in the Executive Department to withhold information from the public if in the agency's view it was in the "public interest," "good cause shown" or that the member of the public was not "properly or directly concerned." Even if the agency's decision was not based on any justifiable reason for withholding, those seeking the information had no remedy to force the agency into disclosure.

The FOI and the prior statute placed a significant impact on the procurement process, and especially the standards of conduct, since it provided a public view of the process through the agency's records. Under the 1946 Act, the National Science Foudnation (NSF) refused to disclose to the public the manner in which the contractor who was awarded the multi-million dollar Project Mohole was chosen. NSF said it was not "in the public interest" to disclose how the contract was awarded. It was only after strong Congressional and White House pressure did NSF disclose that the low bidder had not received the award and that cost had no relationship to the contractor selection. As a result of this revelation, NSF came under considerable criticism and embarrassment [18:911].

The FOI was Congress' attempt to obtain a balance between what the public had a right to know and the

government's need to keep certain information in confidence to the extent necessary without allowing indiscriminate secrecy. Where before, disclosure was the exception under the 1946 Act; disclosure was now the rule under the FOI Act, to be denied only by such compelling consideration as provided for in the exemptions of this Act. To achieve this goal the AOI Act of 1966 introduced the following changes:

1. The prior statute included an eligibility test to determine who was entitled access to the records. The FOI made this information available to "anyone" who requested it.

2. In lieu of the ambiguous phrases "in the public interest," "good cause shown," and "the public was not properly or directly concerned," the FOI established none specifically defined categories of records/information which could be exempted from public disclosure. They were:

- a. Matters specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy.
- b. Matters related solely to the internal personnel rules and practices of an agency.
- c. Items specifically exempt from disclosure by statutes.
- d. Matters that are trade secrets and commercial or financial information obtained from a person and privileged or confidential.
- e. Inter- or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency.
- f. Personnel and medical files and similar files the disclosure of which would constitute unwarranted invasion of personal privacy.

- g. Investigating files compiled for law enforcement purposes except to the extent available by law to a party other than an agency.
- h. Matters contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of, an agency responsible for the regulation or supervision of financial institutions.
- i. Geological and geophysical information and data, including maps, concerning wells.

3. Finally, the FOI Act provided for a judicial review of an agency's refusal to disclose, with the burden to sustain it's nondisclosure action placed on the agency.

The DOD Directive 5500.7 is significant in the chain of regulations on the subject of standards of conduct. Due to DOD's dominant role in Federal procurement, the sections of the directive dealing with gratuities and conflict of interest were developed in greater details than in those regulations issued by other agencies [4:17]. The DOD Directive also extended the requirement for filing the financial disclosures statement to the following employees.

- 1. Certain employees on the executive schedule.
- 2. Members of the Armed Services Board of Contract Appeals.
- 3. GS-13 or above and military in the rank of Lieutenant Colonel, Commander, or above, whose duties involve making decisions on taking action in regard to administering or monitoring grants or subsidies; executing or approving the award of contracts; auditing private or other non-Federal enterprises or other activities which the final decision or action has significant impact on the interest of any non-Federal enterprise [8:14].

The DOD Directive in other sections covers the same subject areas as the Executive Order only in considerably more detail.

The directive is applicable to all military and civilian personnel in all offices, agencies and departments of DOD. On February 3, 1967, the then Deputy Secretary of Defense W. P. Clemens, Jr., made this statement before the Joint Congressional Committee on Defense Production in which he summarized the content of this directive and emphasized its importance:

The DOD directive goes beyond the statutes that restrict criminal activity by providing strong ethical guidance to all of the Department of Defense one million civilian and two million military personnel. As ethical guidance it provides the parameters of official and personal activity which all department personnel must meet in order to perform the national defense mission in a manner that protects the interests of the taxpayer while insuring the national security.
[4:22]

D. DEVELOPMENTS IN THE PAST TEN YEARS

In 1970 the disclosure that defense contractors had treated DOD employees to hunting trips brought renewed criticism to DOD's standards of conduct. Donald Rumsfeld, then Secretary of Defense said,

I can think of few things more damaging and distracting from the very significant, fundamental issue of maintaining a strong defense than to have the kind of articles and stories and revelations about the people not conducting themselves in a way that is clearly proper and above suspicion. [3:40]

As in the case of other disclosures, an immediate investigation of the hunting trip episode was initiated by DOD. The investigation brought to light the fact that as many as 150 Admirals, Generals and other high ranking civilians may

have participated in the hunting trips, all at the expense of the defense contractors. Again, as in the case of investigations results following disclosures to the public, DOD took immediate corrective action. DOD's action was to further define the DOD standards of conduct. This redefining was implemented in November 1975 by a change to DOD Directive 5500.7. This change to the DOD directive removed two exceptions to the rules covering acceptance of gratuities from that which was allowed to that which is prohibited. The DOD directive prohibited:

1. Customary exchange of social amenities between personal friends and relations motivated by such relationships and extended on a personal basis.
2. Transactions between the among relatives which are personal and consistent with the relationships. [8:7].

According to the investigation, acceptance of the hunting lodge invitations had been rationalized by use of the above two exceptions. Although the purpose of deleting the above exceptions was to require DOD personnel to exercise a higher degree of care in their relations with employees of defense contractors, the actual results, however, were far different. The change prohibited the innocent exchange of normal amenities with relatives and bona fide personal friends who happen to be associated with a defense contractor. The impact of this rule as it applied to gratuities was investigated by a Tri-Service Committee on Standards of Conduct. The committee found that:

Because it is not realistic to expect that personnel actually will abandon their customary relations with their kin and long time close friends, this prohibition has left personnel without approved guidelines by which to gauge the permissible limits of such relations. This would appear to have the probable practical effect of encouraging individuals to deal with resultant dilemmas by devising personal guidelines which would nearly inevitably violate the literal language of that provision. An important implication is that if personnel perceive that if exact compliance with one provision of the Directive is not possible...they might well conclude that it is also permissible to deviate from the directive in other respects. [4:24]

As a result of the committee's recommendation the following paragraph is now included in DOD Directive 5500.7:

Customary exchange of social amenities between personal friends and relatives when motivated by such relationship and extended on a personal basis (is acceptable.) [8:7]

In addition to the change in the standards of conduct directives, the DOD on October 22, 1975, sent letters to 36 military officers and four civilian officials in the Pentagon admonishing them for their "lack of judgment" in accepting similar hunting invitations from defense contractors. In addition to cautioning them against accepting any further such invitations, the letter went on to state:

All Defense Department personnel are guardians of public trust and as such, must conduct themselves in such a manner that will insure that the public has confidence in the integrity of the government. To maintain the public trust the relationship with Defense contractors must be above reproach and must demonstrate impartiality and objectivity in all dealings with contractors. [16:10]

In 1977 President Jimmy Carter in attempting to fulfill his campaign pledge to the American people, "to restore the

confidence of the American people in their own government," set out to establish the toughest guidelines concerning conflict of interest. The guidelines carried three basic areas: public disclosure of financial assets, divestiture of assets that could involve possible conflict of interest, and restrictions on employment after the employee left government service [17:578].

Although President Carter's proposal was only directed at Executive Department officials, that is, political appointees, both the Senate and the House of Representatives were working separately on different ideas on the same subject. The Senate passed a measure (S555) which would require financial disclosures from government employees holding posts within all three branches of government [17:578]. The House of Representatives proposed four bills which covered much of the same disclosure ground as S555 but came from different committees. The Judiciary Committee proposed HR 1 which covered financial disclosure and conflicts of interest for Executive and Judicial Branch employees. HR 7401 was proposed by the Select Ethics Committee. This proposal was basically the same as the then disclosure provisions of the House Ethics Code but with civil and criminal sanctions added. HR 6954 was an administrative proposal which covered only the Executive Branch employees. This proposal was made by the House Post Office and Civil Service Committee and the Armed Services Committee. The final proposal, HR 9705,

came from the Judiciary Subcommittee. It proposed a special prosecutor be appointed to investigate conflicts of interest [17:584].

After much discussion and reviews of the various proposals, the final result was the Ethics in Government Act, Public Law 95-521 which was signed into law by President Carter on October 26, 1978 [7:184].

E. ETHICS IN GOVERNMENT ACT - PUBLIC LAW 95-521

PL 95-521, according to President Carter, "responds to the problems that developed in the highest levels of government in the 1970's" [5:835]. The major provisions of PL 95-521 provided for the following:

1. Requires each member of the Executive, Legislative, and Judicial branch of Government who is compensated at a rate equal to or more than the paid rate for grade GS-16 and each military officer rated at 0-7 or higher to file an annual financial disclosure statement which would include:
 - a. Sources of income, gifts, and reimbursements
 - b. Identity and approximate value of property held and liabilities owed.
 - c. Transactions in property, commodities and securities.
 - d. Certain financial interests of a spouse or a dependent.
2. Authorizes the Attorney General to bring civil actions against individuals who knowingly and willfully falsify or fail to file or report the specified information required. Penalties assumed against such individuals shall not exceed \$5,000.

3. Requires that these financial disclosures will be made generally available to the public, with specific exceptions for certain individuals involved in intelligence activities.
4. Permits the President to require officers and employees in the Executive Branch "only," not covered under PL 95-521, to submit confidential reports.
5. Establishes in the Office of Personnel Management the Office of Government Ethics, with a director to be appointed by the President, by and with the advice and consent of the Senate.
6. Extends from one to two years the period of prohibition on appearances before an agency by former Federal employees or officials or commissioned officers in the uniformed services at the specified salary levels on matters that were under such persons' responsibilities. Include within such prohibition informal as well as formal contacts. Prohibits formal and informal contacts with such agencies by former employees on other matters for a period of one year after the end of such employment. Exempted from this prohibition are:
 - a. Scientific personnel, if their communication is solely to furnish scientific and technical information.
 - b. Persons in specified positions designated by the Director of the Office of Government Ethics.
7. Enumerates the authority and duties of a special prosecutor. Authorizes the special prosecutor to make public or send to Congress any statements or reports on his activities as special prosecutor he deems appropriate.
8. Provides a procedure whereby only specified Members of Congress can request that a special prosecutor may only be removed from office by impeachment and conviction, or by the Attorney General for extraordinary improprieties, physical disability, mental incapacity, or any other condition that substantially impairs performance [7:184-185].

Although PL 95-521 would not become effective until July 1, 1979, major alarms were sounded at the Department of Health,

Education and Welfare (HEW), DOD, the National Science Foundation, and the Securities and Exchange commission, with muted moans from the Office of Management and Budget [19:10]. Causing the greatest concern were two provisions of the Ethics in Government Act that:

1. Prevented ex-officials (GS-17 and above, O-7 and above) from contacting their former agencies about any matter, regardless of whether or not they had direct responsibility for it in Government, for a period of one year after resigning.
2. Prohibited these ex-officials for two years after leaving Government service from "assisting in representing" another person before their previous agency on matters they dealt with as Federal employees [9:543].

The basis for their concern is shown in the following example. For two years former DOD contracting officers could not advise in any negotiations on a contract pending before DOD if they had once presided "on the other side of the table" on a similar contract with this company.

Prompted by fears of a large exodus of high-level Federal officials prior to July 1, 1979, when PL 95-521 would become effective and by Government critics who stated that such restrictions would deter talented people from entering Government service, President Carter signed into law PL 96-28 on June 22, 1979. PL 96-28 provides the following changes to the Ethics in Government Act:

1. Limited automatic coverage of the post-employment curbs to executive level civilian employees and military officers in grades O-9 and above. Decisions on which positions to cover at the GS-17 and GS-18 level, in the Federal Senior Executive Service and in military grades of O-7 and O-8 would be up to the Office of Government Ethics.

2. Clarified language in PL 95-521 on the two-year ban on "assisting in representing." The ban would apply solely to those matters that a person participated in "personally and substantially."
3. Allowed former official to advise lawyers, colleagues and others representing his new employer before his old agency. The assisting in representing ban would only apply to personal appearances by the ex-official before his old agency.
4. Exempt those in educational and other nonprofit fields from the no contact provision [9:543-545].

F. SUMMARY

The standards of conduct currently regulating ethical behavior of Government employees have been developed down through the years through a combination of legal statutes, Congressional legislation, Presidential Executive Orders and departmental regulations all enhanced or tempered by the existing mores of society. The result has been a set of standards that provides guidance in all areas of ethical behavior to be used by Government employees in the establishment of their personal and professional behavior. The question now at hand is whether the current standards and supporting regulations have become too complex and technical to be useful to such an extent that they are practically ignored.

IV. ANALYSIS OF THE DEPARTMENT OF DEFENSE'S STANDARDS OF CONDUCT

This chapter provides a general analysis of DOD's standards of conduct as it relates to Government procurement. It will examine the need for standards of conduct in procurement; whether the DOD's standards are meeting these needs; and discuss various changes that perhaps could or should be made.

A. DISCUSSION OF THE NEEDS FOR A STANDARDS OF CONDUCT

The legal structure of a given society expresses the specific and concrete acts to which citizens are obliged for the support and furtherance of basic social institutions which society as a whole has accepted [6:161]. These laws become standards or guides to which the society agrees to conform. It is a basic characteristic of society to seek some rules of conduct which will translate its ideals into concrete expressions in the order of everyday living. Every society needs some system of beliefs, an organized set of ideas around which emotion and purpose may gather [6:vii]. It is from this set of ideas, this order of everyday living that the standards of conduct are born.

DOD's standards of conduct are, likewise, a set of ideals by which DOD attempts to maintain an order in its day-to-day operation. These standards are necessary in order to preserve the public interest, maintain the public trust and

protect the expenditures of public funds. There is an underlying philosophy behind the standards which are as important to Government personnel as are the policies and procedures that regulate their daily effort. This philosophy may be simply stated: All Government employees whose duties involve dealing with industry must maintain higher standards of conduct than those found in civilian business since theirs is a position of trust and responsibility. In order to maintain this trust and fulfill this responsibility, the author contends that there must be strong ethical standards to guide and support the Government employee.

B. PROBLEMS IN PROCUREMENT AS THEY RELATE TO THE STANDARDS OF CONDUCT

One of the purposes of the standards of conduct as they relate to procurement is to prevent the influence of outside private interests on the contracting officer's award of a contract. Reports of violations of this type are very popular newspaper and magazine sellers. The hunting lodge incident, discussed in Chapter III, is a perfect example of a standards of conduct violation. Although Jack Anderson's column will periodically report on DOD violations of the standards of conduct by DOD, for the most part, those DOD personnel involved are not always in direct procurement per se [21].

In an effort to determine the involvement of DOD procurement personnel in standards of conduct violations, a search

was conducted of decisions of the Armed Services Board of Contract Appeals from 1969 to 1979. The result of this search provided very little information that indicated DOD procurement personnel violated DOD's standards of conduct. Most of the information obtained related to violations of the conflict of interest laws by retired military personnel. Interviews conducted with representatives of the Judge Advocate General revealed that few, if any, legal cases and decisions could be found dealing with standards of conduct violations. It is not that the violations do not exist, rather, when Government employees are involved in a violation they are usually allowed to resign or retire rather than be prosecuted [21].

In the last few years, the only known standards of conduct violations where Government personnel have been tried and prosecuted are in the nonappropriated funds area. In April 1978 several Army and Air Force Exchange Service (AAFES) employees and vendors' representatives were fined and given prison sentences in a payment kickback scheme [13:9]. GAO has, however, stated in several audit reports that in the appropriated fund area where defense agencies have awarded consulting service contracts, there was an appearance of a conflict of interest [14:21]. According to a Judge Advocate General representative, there appears to be a misapprehension on what GAO feels the conflict of interest laws state. The common examples given by GAO of

conflict of interest violations are of retired military officers going to work for a defense contractor irrespective of their position. If the GAO feels this way, it is easy to understand why there are misleading press reports and other allegations that would appear that there are a lot of conflict of interest violations in DOD [21].

C. ARE THE STANDARDS MEETING THE NEEDS OF DOD?

It appears from the searches and interviews conducted with the Federal Bureau of Investigation, the Office of Government Ethics and the Office of the Judge Advocate General (JAG) that few, if any, serious violations of the standards of conduct are linked to DOD procurement personnel. The standards appear to be meeting the needs of DOD. Although the laws in this area are still complex, a JAG representative has noticed an increase in the number of Government agencies asking for advice prior to an action in order to follow the intent of the standards [21]. The Government is stressing ethical behavior as exemplified by the Ethics in Government Act of 1978 and it appears that Government employees are being supportive. With the possible exception of the non-appropriated fund there has been no serious violation in DOD procurement that has been prosecuted in over two years according to JAG and the Office of Government Ethics [11:21].

D. SHOULD THE STANDARDS BE CHANGED?

DOD is unique in its awareness of the risks and responsibilities in the administration of multibillion dollar procurement programs. This sensitivity takes the form of specific restraints on conflict of interest and other rules for ethical conduct. DOD is serious about maintaining superior ethical conduct and based on the author's research and interviews it is doing an excellent job. Personnel familiar with the operations of DOD procurement will find that the actual risks of abuse are today very small for the reason that DOD procurement personnel are strongly committed to high ethical standards. The only imperfection noted in the standards, or rather in the dissemination of the information in the standards is found in DOD 5500.7 XIII A:

New DOD personnel will be informed of the standards of conduct upon employment or entry on duty. These standards of conduct will also be brought to the attention of all DOD personnel at least semi-annually thereafter.

Nowhere in the Directive does it state that DOD personnel will be trained or at least acquainted with some of the rules of conduct and responsibility found in the directive.

Based on the research and interviews conducted, the information contained in the standards of conduct is presently sufficient and does not need to be changed. There is, however, a need for better dissemination of the information it contains. DOD procurement personnel are professionals and as professionals they should be trained in all aspects of

their jobs and the responsibilities of their position. It is for this reason that a Study Guide in Ethics and Standards of Conduct has been developed and can be found in the next chapter.

E. SUMMARY

The adequacy of DOD's standards of conduct in preventing conflict of interest violations is the question being addressed in this research paper. Information presented substantiates the fact that the standards of conduct, as presently contained in current regulations, provides the necessary guidance to procurement personnel to prevent conflict of interest violations from developing.

In conducting research on the basic question it has been determined that although the standards of conduct themselves are adequate, there is a need to continue to maintain high ethical standards now found in DOD employees as a result of these standards. To meet this need a study guide has been developed to amplify the standards to make them more relevant to the ethical situations found in Government procurement.

V. STUDY GUIDE OF ETHICS AND STANDARDS OF CONDUCT

LEADER's GUIDE

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I. INTRODUCTION

This "Leader's Guide" has been developed to assist you in conducting training in employee responsibilities in the areas of ethics and standards of conduct. This material has been designed to not require a professional instructor for its presentation. Any supervisor knowledgeable in the area of ethics and standards of conduct should be capable of conducting a class after review and study of this guide. Review of SECNAVINST 5370.2G entitled, Standards of Conduct, and DOD Directive 5500.7 entitled, Standards of Conduct, is required.

This program has been designed to be expanded, by use of case problems, to fit the needs of all employees. The basic program can be presented in approximately two hours. With the addition of case problems and group discussions, the program can be expanded to as much as five hours. Some of the later exercises relate to certain groups of employees only and are not applicable for everyone. You should select the appropriate material to discuss in accordance with the time available for training.

Although this program is for the primary use of procurement personnel, the problem of conflict of interest also arises in the involvement of other DOD employees; technical, engineering, auditors, and other personnel who do not conduct

DOD contracting functions directly with the contractor. These personnel have the potential to exert significant influence in the selection of a contractor. It is for this reason that these personnel should also be invited to attend these training sessions.

The presentation consists of the following components which should normally be presented in the listed sequence.

<u>Basic Program</u>	<u>Time Requirement</u>
1. Opening Comments by Office Supervisor	5 minutes
2. True/False Tests (2 sets)	15 minutes
3. Ethics and Standards of Conduct Lecture	
a. Acceptance of Gratuities and Favors	30 minutes
b. Conflict of Interest Including Outside and Post Government Employment	30 minutes
c. Actual Versus Appearance	15 minutes
d. Confidential Statement of Affiliations and Financial Interest, DD Form 1555	15 minutes
4. Discussion of True/False Answers	10 minutes to 1 hour
5. Closing Comments by Office Supervisor	5 minutes

One may not feel that every exercise relates directly to a particular group. While there was an attempt to design these exercises so that they would be applicable to most procurement situations, it is impossible to account

for all individual differences. As a result, one should select only those exercises that fits best into the particular work situation.

The discussions generated should provide the participants with the opportunity to exchange ideas on employees' ethics and conduct. It is important to point out, however, that many of the questions raised in the exercise material do not have absolute "right" or "wrong" answers. The problems and case studies described in the exercises have been created around specific situations, many of which do not relate directly to a particular regulation, because of this only the "best possible" or "most probable" solution is suggested in this guide. This should be mentioned early in the presentation and repeated as often as it is necessary. As the groups proceed through the exercises, the leader should make a special effort to encourage free discussion by not forcing his or her own ideas on any of the participants.

As the leader you are considered to be an expert in conduct and ethics problems and as such, can certainly expect some difficult questions to surface which might be difficult to give an extemporaneous answer. It is recommended that these questions be written down and forwarded to the level or area with the capability of answering. Upon receipt of the answer it is an excellent policy to provide a written answer to the concerned individual. It is mandatory that you as leader have reviewed both DOD

Directive 5500.7 and SECNAVINST 5370.2G and be able to satisfactorily answer the majority of the questions.

The exercises in this study guide have been designed to help the participants:

1. Sharpen their understanding of pertinent regulations in regard to ethics and standards of conduct.
2. Attempt to clarify various actions and activities which are considered permissible or non-permissible under present Department of Defense and Department of the Navy regulations.
3. Exchange ideas on a wide variety of specific issues, including:
 - a. Conflicts of interest, including outside and post government employment.
 - b. Acceptance of gratuities and favors
 - c. Actual versus appearance of an action/activity
 - d. "Confidential Statement of Affiliations and Financial Interests," DD Form 1555.

II. GENERAL PREPARATIONS

Before conducting these training exercises, it is important that the leader is adequately prepared. In order to do this, the following is a recommended checklist:

1. Read through this Leader's Guide to fully acquaint yourself with the material it contains. Review all exercises in detail.

2. Reproduce one copy of the True/False Test for each participant. Check your training equipment to ensure proper operation of equipment and adequate facility arrangements.

3. Before training activities begin, arrange the meeting room so that three to six participants can sit comfortably around separate tables. Since team discussion is essential during the training exercises, tables that can accommodate three to six participants provide the best seating arrangements. If tables are not available it is recommended that chairs be arranged in small circles. The teams should be arranged in a semi-circle or horseshoe configuration so that as many participants as possible can direct their attention to the front of the room during presentation and summaries of these exercises.

4. Note paper and a pencil/pen should be provided for each one.

5. A flipchart or blackboard will be needed for summarizing decisions made on each exercise or case and for noting other pertinent information.

6. As part of the advance preparation, select those exercises that will best pertain to the different groups of individuals. The best approach is to review the Leader's Guide and the training exercises, as well as other materials that would be pertinent to this program. Use current events or past experiences if they are applicable. Arrange the material in such a manner as to provide convenient places to divide the exercises to provide a coffee break.

7. It is strongly recommended that prior to participating in these training exercises that each employee be asked to review, if not study in detail, the information provided in SECNAVINST 5370.2G and DOD Directive 5500.7. Copies of these can be found in Appendices A and B. Since many of the exercises and cases are based on information contained in these regulations, participants will be better prepared to make decisions involved in these exercises if they have had a review of the regulations.

8. Although this Leader's Guide is set up to instruct any number of teams, the optimum number of groups that any one leader should handle is about two or three teams of three to five participants. In establishing the size and composition of the teams, the following guidelines might prove useful.

a. Teams of five members are best, but depending on the room available, the teams may be larger or smaller. It is best to keep the size of the teams approximately the same.

b. To the extent possible, separate people who work closely with each other.

c. Try to avoid seating two people together at the same table if one reports directly to the other.

d. Very outspoken people should be seated together so they do not dominate their respective groups. However, at the same time attempt to arrange one or two members who can guide the team to a meaningful discussion.

e. Diversity of background in a team is usually preferable to homogeneity.

List of Required Supplies

Supply of True/False Tests

Supply of Case Studies

Notebook Paper

Pencils/Pens

Flipchart or Blackboard

Marking Pens or Chalk

Copies of SECNAVINST 5370.2G

Copies of DOD Directive 5500.7

Copies of Applicable Local Instructions/Notices

III. GENERAL INSTRUCTIONS RELATING TO THE OPENING AND CLOSING OF THE TRAINING PROGRAM

It is strongly recommended that the Contracting Officer or Department Head introduce the program and the course leader. In this introduction the Contracting Officer or Department Head should briefly cover the following items:

1. Both the activity's and his own personal position on ethics and standards of conduct.
2. Bring out special problems that might apply within the activity.
3. State the ethics training policy within the activity. Explain the purpose for this training program.

Immediately following these remarks, the leader should introduce the program covering the following areas:

1. Brief outline of what is to be covered.
2. Explain what is to be expected of each member.
3. Attempt to stimulate the member's interest in the training program.

Following the leader's remarks, proceed into the True/False Test. The test has been designed to test the students general knowledge of the standards of conduct.

IV. GENERAL INSTRUCTIONS CONCERNING TRUE/FALSE TEST

The material covered in the True/False Test is designed as an early presentation of the course material in order to create an awareness of the problems involved in ethics and standards of conduct. It is important to stress to the students that this is simply a self-test and not a recorded test. If a student completes the test without missing a question, he or she should be excused from the training and a notation should be placed in the training file indicating he or she has demonstrated satisfactory knowledge of the standards by a perfect score on the exam.

Upon completion of the true/false test, a discussion of the answers should be conducted. Those areas where the students did well will need little, if any, training. The length of the discussion period must be controlled to allow adequate time for training in those areas where the students were weak.

The true/false test covers most of the material in the training. Development of specific true/false questions to highlight special cases applicable to the activity or training group is highly recommended.

V. GENERAL DISCUSSION FOR SMALL GROUP DISCUSSIONS

The success of this section depends, to some extent, on the leader's ability to oversee the discussions. The leader must be familiar with the various exercises and cases explained in the sessions so that they can be discussed intelligently with the students. More importantly, he or she should have a thorough understanding of the applicable instructions and directives and should be able to discuss the major point of the regulations and some of their hidden meanings.

Beyond this, the leader's function in these cases is primarily one of a facilitator who clarifies procedural problems and serves as a moderator for intergroup comparisons. The leader must be careful to not allow the groups to single out an individual for attack and must stress that the standards have a procedure for reporting standards of conduct violations (DOD 5500.7 XIV) and that during a group discussion is neither the time nor place. In addition, the role will be to assure that each group comes to a specific conclusions about each case and then to explore with the groups how their decisions relate to the "most probable" interpretation of SECNAVINST 5370.2G and DOD Directive 5500.7 on ethics and standards of conduct.

The major function of the leader during this portion of the training will include:

1. Monitoring group activities for information which will be useful later in group comparisons of the conclusions reached.
2. Answering questions raised by the participants and working with individuals or teams who experience temporary difficulties.
3. Drawing specific conclusions from each case by allowing the teams to offer their points of view and by relating them to the specific instruction or directive.

In addition to these tasks, it is important that, as much as possible, that the director acts as a discussion leader and not as an instructor. This allows the ideas to flow from the various groups which perhaps would be stifled if the leader acted as an instructor during the phase of the training.

The following pointers are intended primarily for those people who are going to be responsible for conducting the training and who have not had experience in working with small group case study exercises.

1. Encourage participants to contribute to their team discussions. If some are reluctant to do so, attempt to help them become part of the discussion by joining their groups and drawing them into the discussion.
2. Whenever possible, relate the discussion to the specific situations within the activity or command with which members of the groups are familiar.
3. Toss questions raised by participants to all the groups for discussion. Attempt to allow the groups to feel free to reach their own respective conclusions.

4. After the case studies, it is helpful to provide a short lecture period to cover the material which will be discussed in the case study. It is important not to lecture on any subject for more than thirty minutes, no matter how interesting the lecture is, as it might be difficult to keep the full attention of the participants. It is more desirable to intersperse the lecture with questions so that the participants can become involved in a particular topic rather than passively listening to an extended talk.

5. As the lecture beings, attempt to briefly outline the material to be discussed and as frequently as necessary, summarize, or request that a participant summarize key lecture points. Whenever possible, relate questions to specific sections of the SECNAVINST 5370.26 or DOD Directive 5500.7.

VI. SPECIFIC GUIDELINES FOR CONDUCTING TRAINING EXERCISES

This section of the Leader's Guide contains notes and suggestions on how to conduct specific workshop exercises. There is a space left to add any notes the leader feels would help improve upon the comments and suggestions offered. Specific references may also be added to support some of the points of view offered for certain exercises discussed in this portion of the guide. In addition, target times may also be added to serve as a yardstick to assure that all material is covered in the time scheduled for completion.

VII. GENERAL OUTLINE FOR LEADER'S INTRODUCTION TO THE
TRAINING COURSE

This program is designed to acquaint Government employees with some of the rules of conduct and personal responsibilities which govern every person in DOD, both civilian and military. The governing rules are found in DOD Directive 5500.7 which has been implemented in the Navy by SECNAVINST 5370.2G. Each student will receive a copy of these instructions (Appendices A and B) to read and understand. The majority of the information covered in this training will come from this instruction. As the student progresses through the sessions, it is important to remember that the training should be both in information and enjoyable.

As citizens all personnel have certain controls under which they must operate as members of a civilized society; obeying local, state, and national laws of the land, paying our taxes and sharing general responsibility for the welfare of our families.

As Government employees, there are special requirements by which all must abide. As keepers of the public interest and funds, it is important to maintain high standards of ethics and conduct. As Government employees, conduct on and off the job reflects both on the individual and the Government.

During training sessions it will be impossible to cover every aspect of the Standards of Conduct instruction; however, the training will attempt to identify some of the more common situations Government employees may find themselves in.

The purpose of this training is based on the requirement that every Government employee, both military and civilian, is required to be familiar with the contents, prohibitions, and requirements contained in this instruction. In addition, every Government employee must review the contents of this instruction every six months to ensure familiarity and compliance with the instructions. As such, it is felt that by reviewing pertinent sections of the instruction and jointly discussing various case studies that the procurement agents of the DOD will have a better grasp of the requirements since responsibilities bring them into day-to-day contact with its requirements. Additionally, as "Keepers of the Public Trust" they have a responsibility to the American people to care for their taxes and trust.

The training will be divided into four major areas:

1. Acceptance of gratuities and favors
2. Conflicts of interest, including outside and post Government employment
3. Actual versus appearance of an action/activity
4. DD Form 1555, "Confidential Statement of Affiliations and Financial Interests" (Optional).

Transparency masters have been provided in Appendix A for use in the training sessions. These masters contain

the basic information required in the course and are a useful teaching aid.

ACCEPTANCE OF GRATUITIES AND FAVORS

A. OBJECTIVES

1. To point out DOD's position on soliciting or accepting gratuities or favors.
2. To provide a check list on which to base whether a gratuity or favor being offered is illegal.

B. GRATUITIES AND FAVORS

Although no rules have ever been legislated prohibiting social contact between Government employees and business representatives, the acceptance of entertainment, gifts, or favors between the two groups has been.

(Transparency #1)

Executive Order 11222, which has been implemented in DOD Directive 5500.7, prohibits any Government employees from soliciting or accepting, directly or indirectly, anything of monetary value from any person, corporation, or group which:

1. Has, or is seeking to obtain, contractual or other business with his agency.
2. Conducts operations or activities that are regulated by his agency.
3. Has interests that may be substantially affected by the performance or nonperformance of his official duties.

Remember, it is often difficult to determine when a gratuity is an illegal gift from that of an innocent social

favor. In order to avoid this problem each situation should be tested against the following criteria for an illegal gratuity:

(Transparency #2)

1. Does this situation involve using a public office for a private gain?
2. Is preferential treatment being given to any organization or person?
3. Will this situation impede Government efficiency or economy?
4. Is there a loss of the Government ability to be impartial?
5. Does this situation bypass or allow official decisions to be made outside official channels?
6. Is the confidence of the American public in the integrity of the Government weakened or seriously affected in this situation? (DOD 5500.7 IV F)

If the answer to any of the above questions is "Yes," no matter whether the situation is actual or creates the appearance of being actual, it must promptly be reported to the immediate supervisor. It is the department supervisor's responsibility to determine if the situation is potential conflict, and if so, must be reported up the chain of command.

The statutes and regulations concerning standards of conduct are very clear in their application to contracting

personnel. Contracting personnel, who are directly and personally involved in conducting Government business and the spending of public funds, must deliberately detach themselves from dealings with contractors and prospective contractors.

The problem arises in the involvement of the other DOD employees; technical, engineering and other procurement personnel who do not conduct DOD business directly with the contractors. These personnel have the potential to exert significant influence in the selection of a contractor. In addition, the nature of their work often necessitates close personal contact with their industrial counterparts; friendships which develop through professional meetings, trips to the contractor's plant, through conferences to discuss technical areas of mutual interests, and through informal contacts from contractor's representatives. Reasonable care and discretion must be exercised by these DOD employees. It is in this area that these friendships might result in actual or apparent conflict of interest which may compromise the entire Government-industrial procurement effect.

At the end of each training session there will be two case studies to enforce the information that has just been presented. Depending on the available time either one or both of the cases may be used. The answer to the case studies can be found in the Appendix.

GRATUITIES AND FAVORS

Case Example #1

When Morris Smith, an inventory manager at a large Naval Inventory Control Point (ICP), arrived home from an industrial trade fair his wife informed him that a box of Florida fruit had been delivered that afternoon. The box contained a large assortment of candies, dates, and preserved fruits packed in the center of the oranges and grapefruit. Also contained in the box was an anniversary card from a Mr. Pat Jones, head of the Industrial Marketing branch of ABC Incorporated.

ABC Inc. had performed successfully on several space parts contracts with Smith's activity. ABC had a reputation of producing high quality, reasonably priced spare parts, and had never been late on a delivery. During the various contract negotiations, Smith had become friendly with both Jones and Bill Johnson, ABC's vice president of production. Smith and Johnson regarded themselves as professional colleagues since both were members of the National Contract Management Association (NCMA). In fact, Smith had arranged for Johnson to be a guest speaker at an NCMA luncheon held at Smith's activity.

Although Jones and Johnson regularly visited Smith when they were in the Northeast on business, they always restricted their conversations to general topics or to technical areas

of mutual interest. Through their long friendship, neither company representative had ever sought information beyond which they were entitled to on a particular solicitation or proposed procurement, or sought any preferential treatment to direct business to their company.

ABC presently held no defense contracts with the Navy, and to the best of Smith's knowledge, the Navy was not negotiating with or planning any solicitation that involved ABC. Despite all this, Smith was uncertain as to what should be done about the anniversary present. Smith was doubtful that the express company that delivered the fruit would accept the return of perishable fruit that already had been opened and sampled.

What action should Smith take under these circumstances?
Does the action Smith should take change if the card contained in the shipment was a birthday card?

GRATUITIES AND FAVORS

Case Example #2

Upon return from two weeks leave, CDR Nat Ford, Contracting Officer at Naval Supply Center Brooklyn, noticed a slight change in the Procurement Department. New pocket calculators and pens were found on each desk in the office. On each calendar and pen was the slogan, "Gizmo Widgets, Inc., Leaders in Electronic Technology." In addition, CDR Ford noticed that everyone in the office was sporting brand new navy blue plastic zippered briefcases. Each briefcase was imprinted on one side with the owner's name and rank or position, and the legend, "Naval Supply Center Brooklyn," and the official emblem of the command. The other side carried the slogan found on the calculators and pens, and briefcases had been distributed two weeks ago by the New York sales representative of Gizmo Widgets, Inc.

What action, if any, should CDR Ford take?

Could they keep any of the items and not be in potential conflict of interest?

CONFLICT OF INTEREST INCLUDING OUTSIDE AND POST GOVERNMENT
EMPLOYMENT

A. OBJECTIVES

1. Clarify the restrictions of activities as they apply to the various categories of Government employment, outside employment and post-Government employment.
2. To alert the student to the Disqualification Procedures in the event of a conflict of interest.
3. Bring to the student's attention the unethical situations that may arise as a result of outside and post-Government employment.

B. CONFLICT OF INTEREST

DOD Directive 5500.7 states that DOD personnel shall not engage in any personal, business, or professional activity, or receive or retain any direct or indirect financial interest, which places them in a position of conflict between their private interest and the public interests of the United States related to their duties or responsibilities of their DOD position. This prohibition also extends to the private interests of a spouse, minor child, and any household members. U.S. Criminal Code (Title 18, U.S.C., Sec. 208) states that this violation carries a penalty of a \$10,000 fine and/or two years imprisonment.

In general, the Government's conflict of interest laws apply to all full-time officers and employees, and all military officers on active duty. The only exceptions are

those who are "special Government employees." The following conflict of interest prohibitions apply:

(Transparency #3)

1. Represent anyone else before a court or Government agency in a matter in which the United States is a party of has an interest. (18 U.S.C. 203 and 205)
2. Receive any salary from a private source as compensation for his services to the Government. (18 U.S.C. 209)
3. Participate in his Government cap city in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment, has a financial interest. (18 U.S.C. 208)

The only exception that has been made under restriction #3 is for the financial holdings of DOD personnel that consist of a "share in a widely held diversified mutual fund or regulated investment company" where the interest results indirectly from ownership by the fund or investment company of stocks in business. (DOD 5500.7 XVI A3)

Although special Government employees are exempted from these general restrictions of full-time employees and military officers, they are still subject to the following:

1. May not, except in the discharge of his official duties, represent anyone else:
 - a. before a court of Government agency in a matter in which the United States is a party or has an interest and which he has at any time participated personally and substantially for the Government. (18 U.S.C. 203 & 205)

b. in a matter pending before the agency he serves unless he has served there no more than 60 days during the last 365. (18 U.S.C. 203 & 205)

2. May not participate in his Government capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment, has a financial interest. (18 U.S.C. 208)

C. OUTSIDE EMPLOYMENT

DOD Directive 5500.7 states that DOD personnel shall not engage in outside employment or other outside activity, with or without compensation, which:

1. can be reasonably expected to bring discredit to the Government;
2. will interfere with the performance of their official duties;
3. may involve a conflict of interest.

The discredit-employment limitation, although not limited only to these instances, has arisen as a result of employment with regard to striking unions and strikebreaking.

The interference-with-duty limitation generally refers to normal working time. As long as DOD employees do their work and work normal assigned hours, most agencies have no objections to outside employment providing such outside employment does not physically or mentally impair the work with the Government.

The conflict-of-interest limitation is difficult to apply due to the difficulty of identifying such situations. When attempting to determine if an outside employment involves a conflict of interest, an excellent guide to use as a standard is the Code of Ethics for Government Service. If the outside employment appears to be in contradiction to the Government's Code of Ethics, listed below, there is a good possibility that an actual or apparent conflict of interest situation exists.

(Transparency #5)

Code of Ethics for Government Services
(Congressional Resolution 175)

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.
2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.
3. Give a full day's labor for a full day's pay; giving to the performance of duties his earnest effort and best thought.
4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of government duties.
6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of government duties.
8. Never use any information coming to him confidentially in the performance of government duties as a means for making private profit.
9. Expose corruption wherever discovered.
10. Uphold these principles, ever conscious that public office is a public trust.

D. POST-EMPLOYMENT RESTRICTIONS

The restrictions imposed upon the DOD employees by the conflict of interest laws which are found in the standards of conduct do not end with their termination of Government service. Legislation has been on the books for nearly a century restricting the relations of former Government employees with their agencies and with the Government. The reasons for these post-employment restrictions center around the following concerns:

(Transparency #6)

1. the access to inside information
2. the use of personal influence
3. the potential immorality in the behavior of a former Government employee who had switched sides.

The post-employment restrictions apply to full-time civilian officers or employees who have left Government service, retired regular officers and reserve officers released from active duty. However, it does not include enlisted personnel.

These restrictions are broken down by various categories of former Government employment. They include:

1. former civilian officers and employees,
2. special Government employees,
3. retired regular officers,
4. officers of reserve components.

The following major prohibitions apply:

(Transparency #7)

1. Former Civilian officers and employees
 - a. May not, at any time after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(A)).
 - b. May not, for one year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 202(b) & 207(b)).
2. Special Government Employees

Subject to the same prohibitions as a former employee (18 U.S.C. 207).
3. Retired Regular Officer
 - a. Subject to the same prohibitions as a former employee. (18 U.S.C. 207)
 - b. May not, at any time, assist in prosecuting a claim against the United States if he worked on that claim while on active duty (18 U.S.C. 283).
 - c. May not, within two years after their retirement, assist in prosecuting a claim which involves the department in whose services they hold a retired status (18 U.S.C. 283).

- d. May not, at any time, sell anything to the department in whose service they hold a retired status (18 U.S.C. 281).
- e. May not, within three years after retirement, sell supplies or war materials to any agency of the DOD, the Coast Guard, the Coast and Geodetic Survey, or the Public Health Service. (37 U.S.C. 801 (c) as amended by P.L. 87-777)

In addition to the above restrictions, each regular retired officer of the armed forces shall file with the military department in which they hold a retired status a Statement of Employment shall be filed within thirty days after retirement and whenever the information in the statement is no longer accurate. (DOD 5500.7 XVI 2(a))

4. Officers of the Reserve Components

When released from active duty, a Reserve officer is subject to the same restrictions as a former civilian employee (DOD 5500.7 XVI E(4)).

E. DISQUALIFICATION PROCEDURE

When in the event of Government employees participating in a Government capacity in a matter in which they, their spouse, minor child, outside business associate or person with whom they are negotiating for employment, has a financial interest, they must disqualify themselves from this matter. The disqualification procedure consists of:

(Transparency #8)

1. prompt notification to their superior of the financial conflict of interest
2. full disclosure of the financial interest.
3. The employee's superior will then

- a. relieve them from his duty and responsibility in the matter (Exception: if the Government official responsible for the appointment makes a written advance determination that the interest is not so substantial as to affect the integrity of the services which the Government may expect from the employee.)
- b. upon disqualification, the superior will reassign the matter for decision and action to someone else who is not subordinate to the disqualified person.

It should be emphasized that voluntary disqualification is a sign of ethical behavior and in no way should any stigma be attached to the action.

CONFLICT OF INTEREST

Case Example #1

Jeff Powers, a contracting officer at the Naval Material Command, was on top of the world. Having just completed his Government intern program in procurement and being accepted in his new position was more than he could have hoped for. His wife, Betty, also added to his fantastic feeling. She had just obtained a position as a private secretary for the Financial Director at ABC Corporation. Living in Washington, DC, was expensive but now that they both had good jobs they could now afford to buy their small dream home in Virginia.

As Jeff sat back dreaming about where his woodworking shop would go in his new garage, his boss, Captain Seabag, USN, came in to tell him about a proposal Jeff would be negotiating. "I know you are still new, Jeff, but everyone else is tied up and we have to have the contract finalized by the end of the week. ABC Corporation negotiators will be here tomorrow. You do a good job on this and I'll guarantee you'll be negotiating the major contracts in no time."

What action should Jeff do under the circumstances?

CONFLICT OF INTEREST

Case Example #2

Dick Schauer, head of a procurement branch at a large Naval Air Stations, had an outside job as an instructor at a local extension of the state university. The university extension was located at a defense contractor's plant.

Teaching the class twice a week was an enjoyable experience for Schauer; however, because of the early starting time of classes, Schauer did not have time to go home for dinner. The plant had a cafeteria where the meals were subsidized by the contractor for the evening and night shift. Since the class was held at the contractor's plant and most of the students worked for the contractor, the contractor had authorized both Schauer and the students to eat at the cafeteria.

Schauer wondered that if by eating his meals at the cafeteria twice a week was he getting himself into a conflict of interest situation, especially since he was preparing to negotiate a large contract with the contractor.

What would you recommend to Dick Schauer concerning this situation?

ACTUAL VERSUS APPEARANCE

A. OBJECTIVES

1. To ensure that the student understands that the underlying purpose of the Standards of Conduct is to guarantee public confidence in the integrity of the Government.
2. To point out that a particular act or action can be perceived differently by a person or persons who do not have the same background or knowledge as the Government official who performed the act.

B. ACTUAL VERSUS APPEARANCE

As pointed out in previous lessons, Government employees must avoid actual situations which involve gratuities, conflict of interest and other actions prohibited by DOD Directive 5500.7. It is hoped that this general knowledge will normally keep the Government employee well cleared of most of these situations. In more difficult situations Government employees may find themselves in a situation where there may exist the appearance of a conflict of interest. It is important to discuss this "appearance of a conflict" since these are situations, when viewed by an outsider, that can damage the public's confidence in the integrity of the Government.

The true nature of a particular situation is irrelevant. The Standards of Conduct do not require that those who perceive a violation base their perception on the same knowledge or background as the official who performed the act or made the decision. Remember, the public may be completely ignorant of the motives or requirements that

brought about the action of decision; yet, so long as the perception of the outside viewers is reasonable, the act or decision is wrong. This would be difficult for Government employees to accept if it were not for an underlying rule in the standards that if a doubt arises regarding the propriety of an act, the act should not be undertaken. It might be easier to understand after this example.

You and your neighbor, Jim, are good friends. He just received some pro football tickets from his boss and asked if you would like to accompany him. The seats are box seats which the company buys each year. You really want to go to this game; however, you are the contracting officer which often deals with this company. Should you accept the invitation?

The answer is no. Even though there is no actual conflict of interest (the tickets were offered by a personal friend) and DOD 5500.7 clearly states that a customary exchange of social amenities between personal friends are allowed, this situation could appear clearly as a conflict of interest when viewed by an outsider attending the game.

In this lesson, it is important to remember two things:

1. Actions or decisions should be tested as if they were being made on a stage opened to the public.
2. If there is any doubt whether the possibility of a conflict is present in a situation, bring it to the appropriate supervisor's attention for evaluation and disposition.

ACTUAL VERSUS APPEARANCE

Case Example #1

LT Swegle, a Navy contracting officer, was concerned over one of his buyers, Mr. Short, who was always complaining about being in financial trouble. Owning a large custom house in a well-to-do suburb, driving an expensive sports car, and having two kids in college would be hard on most people but on a GS-9 salary LT Swegle could not see how Short was managing. According to Mr. Short, Mrs. Short did have a part-time job that paid her peanuts.

LT Swegle is considering transferring Mr. Short to a new position in the service contract area. Mr. Short would be working in an area where there has been numerous conflict of interest violation reported. Although Mr. Short is an excellent worker, LT Swegle is worried that the temptation in that area might be too great.

If you were LT Swegle, what would you do in this situation?

ACTUAL VERSUS APPEARANCE

Case Example #2

Joe Wright was the head of the technical section of a large Naval activity. One morning his office door opened, and a well-dressed gentleman in his mid-sixties approached his desk.

"Mr. Wright, I'm Tom Bass. Just call me Tom. I've just had a talk with (here Tom Bass mentioned the first name of the commander of the activity), who said you are the man to see. He and I served many a tour together. I have just retired and am now a sales representative at Fundamentals Engineering. It is a young firm with good growth potential but right now it needs to get more Government business. That is why I am here. I want to cut through all this red tape and B.S. and see if we can just talk things over. I am willing to sit down and tell you all about our capabilities, and if you have something we can do, I guarantee Fundamental can get right on it without a lot of trouble or paperwork for the Navy. I have talked to your Procurement section and have been told you are the people who really select the contractors. That is why I want to start on the ground floor. I know we will work well together."

What reply should Joe Wright make to Tom Bass?

Do you think Bass's activities conflict with regulations concerning the business activities of a retired military?

CONFIDENTIAL STATEMENT OF AFFILIATIONS AND FINANCIAL INTEREST,
DD FORM 1555

A. OBJECTIVES

1. To discuss the reporting requirements of the DD Form 1555.
2. To point out the reason for reporting financial interests on the DD Form 1555.

Note: Since the DD Form 1555 is required to be filed by GS-13 or above and O-5 and above, this session may be deleted if the class population is not composed of senior civilians or military officers.

B. FINANCIAL DISCLOSURE REQUIREMENTS

The financial disclosure reporting system, which is included in the standards of conduct, is perhaps one of the most well known aspects of the Government's ethics program. Under the financial disclosure system officers and employees of DOD must submit annually the "Confidential Statement of Affiliations and Financial Interest," DD Form 1555. The DD Form 1555 shall contain the following information:

(Transparency #9)

1. A list of names of all corporations, companies, firms, or other business enterprises, partnerships, non-profit organizations, and educational and other institutions.
 - a. with which they are connected as an employee, officer, owner, director, trustee, partner, advisor, or consultant; or
 - b. in which they have continuing financial interests, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional association; or

2. A list of the names of their creditors, other than those to whom they may be indebted by reason of a mortgage on property which they occupy as a personal residence or to whom they may be indebted for current and ordinary household and living expenses.
3. A list of their interests in real property or rights in lands, other than property which he occupies as a personal residence.

Now that it is understood what has to be reported, who must file the DD Form 1555? The filing requirements include:

(Transparency #10)

1. Executive Schedule employees listed in subchapter II of Chapter 53 of Title 5, United States Code.
2. Board members of the Armed Service Board of Contract Appeals.
3. GS-13 or above or members of the military in the rank of Lieutenant Colonel, Commander or above whose basic duties and responsibilities require the incumbent to exercise judgment in making a Government decision or in taking Government action in regard to:
 - a. administering or monitoring grants or subsidies
 - b. contracting or procurement, specifically, those who sign, negotiate, recommend, or approve the award of contracts
 - c. auditing, including both those who audit or develop policies and procedures for performing audits
 - d. other activities in which the final decision or action has a significant economic impact on the interests of any non-Federal enterprise.

The reason for the financial disclosure system is for the most part self-evident--the need to maintain the public's confidence in the integrity of the Government. The trust of the general public is a delicate matter. It is felt that the reporting requirements in DOD Directive 5500.7 are

far from perfect, expecially in the area of Government procurement. If the public's confidence is truly going to be maintained, then there is a need for all personnel associated with Government procurement to report under the financial disclosure system. Those individuals responsible for generating requirements, writing specifications, performing inspections, representing the contracting officer and receiving items are also very susceptible to conflict of interest situations.

There are no case examples for this session.

STUDY GUIDE APPENDIX A

GRATUITIES

Executive Order 11222, which has been implemented in DOD Directive 5500.7, prohibits any Government employee from soliciting or accepting, directly or indirectly, anything of monetary value from any person, corporation, or group which:

1. has, or is seeking to obtain, contractual or other business with their agency.
2. conducts operations or activities that are regulated by their agency.
3. has interests that may be substantially affected by the performance or nonperformance of their official duties.

TRANSPARENCY #1

GRATUITIES

TEST FOR AN ILLEGAL GRATUITY

1. Does this situation involve using a public office for a private gain?
2. Is preferential treatment being given to any organization or person?
3. Will this situation impede Government efficiency or economy?
4. Is there a loss of the Government ability to be impartial?
5. Does this situation bypass or allow official decisions to be made outside official channels?
6. Is the confidence of the American public in the integrity of the Government weakened or seriously affected in this situation?

TRANSPARENCY #2

CONFLICT OF INTEREST

The Government Conflict of Interest Laws apply to all full-time officers and employees, and all military officers on active duty. In general, the following conflict of interest prohibitions apply:

1. Represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. (18 U.S.C. 203 and 205)
2. Receive any salary from a private source as compensation for the services to the Government (18 U.S.C. 209)
3. Participate in their Government capacity in any matter in which they, their spouses, minor children, outside business associates or persons with whom they are negotiating for employment, has a financial interest. (18 U.S.C. 208)

The only exception that has been made under restriction #3 is for the financial holdings of DOD personnel that consist of a "share in a widely held diversified mutual fund or regulated investment company" where the interest results indirectly from ownership by the fund or investment company of stocks in business. (DOD 5500.7 XVI A3)

TRANSPARENCY #3

OUTSIDE EMPLOYMENT

DOD Directive 5500.7 states that DOD personnel shall not engage in outside employment or other outside activity, with or without compensation, which:

1. can be reasonable expected to bring discredit to the Government;
2. will interfere with the performance of their official duties;
3. may involve a conflict of interest.

TRANSPARENCY #4

CODE OF ETHICS FOR GOVERNMENT SERVICE
(Congressional Resolution 175)

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.
2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.
3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.
4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.
6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.
7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.
8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
9. Expose corruption wherever discovered.
10. Uphold these principles, ever conscious that public office is a public trust.

TRANSPARENCY #5

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AN ANALYSIS OF DOD'S STANDARDS OF CONDUCT APPLICABLE TO PERSONNEL--ETC

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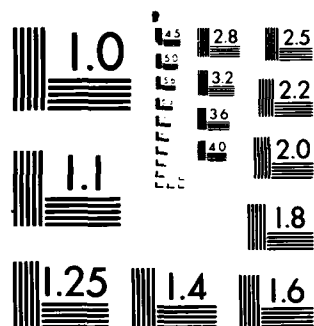
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REASONS FOR POST-EMPLOYMENT RESTRICTIONS

1. The access to inside information.
2. The use of personal influence.
3. The potential immorality in the behavior of a former Government employee who had switched sides.

The post-employment restrictions apply to full-time civilian officers who have left Government service, retired regular officers and reserve officers released from active duty. However, it does not include enlisted personnel.

TRANSPARENCY #6

MAJOR POST-EMPLOYMENT RESTRICTIONS

1. Former Civilian Officers and Employees

- a. May not, at any time, after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which they participated personally and substantially for the Government. (18 U.S.C. 207(a))
- b. May not, for one year after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of their official responsibility during the last year of his Government service. (18 U.S.C. 202(b) & 207(b))

2. Special Government Employees

Subject to the same prohibitions as a former employee.
(18 U.S.C. 207)

3. Retired Regular Officer

- a. Subject to the same prohibitions as a former employee.
(18 U.S.C. 207)
- b. May not, at any time, assist in prosecuting a claim against the United States if they worked on that claim while on active duty. (18 U.S.C. 283)
- c. May not, within two years after their retirement, assist in prosecuting a claim which involves the department in whose services they hold a retired status. (18 U.S.C. 283)
- d. May not, at any time, sell anything to the department in whose services they hold a retired status. (18 U.S.C. 281)
- e. May not, within three years after retirement, sell supplies or war materials to any agency of the DOD, the Coast Guard, the Coast and Geodetic Survey, or the Public Health Service. (37 U.S.C. 801(c) as amended by P.L. 87-777).

TRANSPARENCY #7

4. Officers of the Reserve Components

When released from active duty, a Reserve officer is subject to the same restrictions as a former civilian employee. (DOD 5500.7 XVI E(4))

TRANSPARENCY #7

DISQUALIFICATION PROCEDURE

The disqualification procedure consists of:

1. prompt notification to their superior of the financial conflict of interest
2. full disclosure of the financial interest
3. The employee's superior will then
 - a. relieve him from his duty and responsibility in the matter (Exception: If the Government official responsible for his appointment makes a written advance determination that the interest is not so substantial as to affect the integrity of the services which the Government may expect from the employee.)
 - b. Upon disqualification, the superior will reassign the matter for decision and action to someone else who is not subordinate to the disqualified person.

TRANSPARENCY #8

DD FORM 1555

The "Confidential Statement of Affiliations and Financial Interest." DD Form 1555 contains the following information:

1. A list of names of all corporations, companies, firms, or other business enterprises, partnerships, non-profit organizations, and educational and other institutions.
 - a. with which they are connected as an employee, officer, owner, director, trustee, partner, advisor, or consultant; or
 - b. in which they have continuing financial interests, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional association; or
 - c. in which they have any financial interest through the ownership of stocks, bonds, or other securities.
2. A list of the names of their creditors, other than those to whom they may be indebted by reason of a mortgage on property which they occupy as a personal residence or to whom they may be indebted for current and ordinary household and living expenses.
3. A list of their interests in real property or rights in lands, other than property which they occupy as a personal residence.

TRANSPARENCY #9

DD FORM 1555

Who is required to file a DD Form 1555?

1. Executive Schedule employees listed in Subchapter II of Chapter 53 of Title 5, United States Code.
2. Board members of the Armed Service Board of Contract Appeals.
3. GS-13 or above or members of the military in the rank of Lieutenant Colonel, Commander or above whose basic duties and responsibilities require the incumbent to exercise judgment in making a Government decision or taking Government action in regard to:
 - a. administering or monitoring grants or subsidies
 - b. contracting or procurement, specifically, those who sign, negotiate, recommend, or approve the award of contracts
 - c. auditing, including both those who audit or develop policies and procedures for performing audits
 - d. other activities in which the final decision or action has a significant economic impact on the interests of any non-Federal enterprise.

TRANSPARENCY #10

STUDY GUIDE APPENDIX B



January 15, 1977
NUMBER 5500.7

GC, DoD

Department of Defense Directive

SUBJECT Standards of Conduct

References: (a) DoD Directive 5500.7, "Standards of Conduct,"
August 8, 1967 (hereby cancelled)
(b) through (c) see enclosure 1

I. REISSUANCE AND PURPOSE

- A. Government employment, as a public trust, requires that Department of Defense (DoD) personnel place loyalty to country, ethical principles, and law above private gain and other interests. This Directive prescribes standards of conduct required of all DoD personnel, regardless of assignment.
- B. This Directive reissues reference (a) to update DoD implementation of Executive Order 11222 of May 8, 1963 (reference (b)) and the Civil Service Commission Regulation, "Employee Responsibilities and Conduct," Title 5, Code of Federal Regulations, Part 715 (reference (c)). It includes standards of conduct based on the conflict of interest laws (see enclosure 2), and it reflects the Code of Ethics for Government Service contained in House Concurrent Resolution 175, 85th Congress (reference (d)).
- C. Penalties for violations of these standards include the full range of statutory and regulatory sanctions for civilian and military personnel.
- D. Reference (a) is hereby superseded and cancelled.

II. APPLICABILITY AND SCOPE

The provisions of this Directive apply to all DoD personnel and to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereinafter referred to as "DoD Components"), including nonappropriated fund activities.

III. DEFINITIONS

- A. DoD Personnel. All civilian officers and employees, including special Government employees, of all DoD Components, and all active duty officers (commissioned and warrant) and enlisted members of the Army, Navy, Air Force, and Marine Corps.
- B. Gratuity. Any gift, favor, entertainment, hospitality, transportation, loan, any other tangible item, and any intangible benefits, for example discounts, passes, and promotional vendor training, given or extended to or on behalf of DoD personnel, their immediate families, or households for which fair market value is not paid by the recipient or the U.S. Government.
- C. Special Government Employee. A person who is retained, designated, appointed, or employed to perform, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis. The term also includes a Reserve officer while on active duty solely for training for any length of time, one who is serving on active duty involuntarily for any length of time, and one who is serving voluntarily on extended active duty for 130 days or less. It does not include enlisted personnel.
- D. Standards of Conduct Counselors. See section XVI.

IV. PROPER CONDUCT OF OFFICIAL ACTIVITIES

- A. DoD personnel shall become familiar with the scope of authority for, and the limitations concerning, the activities for which they have responsibilities.
- B. The attention of DoD personnel is directed to the statutory prohibitions which apply to DoD personnel conduct (see enclosure 2).
- C. DoD personnel shall not make or recommend any expenditure of funds or take or recommend any action known or believed to be in violation of U.S. laws, Executive Orders, or applicable Directives, Instructions, or regulations.
- D. In cases of doubt as to the propriety of a proposed action or decision in terms of regulation or law, DoD personnel shall consult legal counsel or, if appropriate, the Standards of Conduct Counselor or Deputy Counselor to ensure the proper and lawful conduct of DoD programs and activities.

V. EQUAL OPPORTUNITY

DoD personnel shall scrupulously adhere to the DoD program of equal

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opportunity regardless of race, color, religion, sex, age, or national origin, in accordance with DoD Directive 1100.15 (reference (e)).

VI. CONDUCT PREJUDICIAL TO THE GOVERNMENT

DoD personnel shall avoid any action, whether or not specifically prohibited by this Directive, which might result in or reasonably be expected to create the appearance of:

- A. Using public office for private gain;
- B. Giving preferential treatment to any person or entity;
- C. Impeding Government efficiency or economy;
- D. Losing complete independence or impartiality;
- E. Making a Government decision outside official channels; or
- F. Affecting adversely the confidence of the public in the integrity of the Government.

VII. CONFLICTS OF INTERESTS

- A. Affiliations and Financial Interests. DoD personnel shall not engage in any personal, business, or professional activity, or receive or retain any direct or indirect financial interest, which places them in a position of conflict between their private interests and the public interests of the United States related to the duties or responsibilities of their DoD positions. For the purpose of this prohibition, the private interests of a spouse, minor child, and any household members are treated as private interests of the DoD personnel.
- B. Using Inside Information. DoD personnel shall not use, directly or indirectly, inside information to further a private gain for themselves or others if that information is not generally available to the public and was obtained by reason of their DoD positions.
- C. Using DoD Position. DoD personnel are prohibited from using their DoD positions to induce, coerce, or in any manner influence any person, including subordinates, to provide any benefit, financial or otherwise, to themselves or others.
- D. Disqualification or Divestiture Requirements. Unless otherwise expressly authorized by action taken under 18 U.S.C. 207 or 208 (reference (f)), all DoD personnel who have affiliations or financial interests which create conflicts or appearances of conflicts of interests with their official duties must disqualify themselves from any official activities that are

related to those affiliations or interests or the entities involved. A formal disqualification must be sent to an individual's superior and immediate subordinates whenever it appears possible that his official functions will affect those affiliations, interests, or entities. If the individual cannot adequately perform his official duties after such disqualification, he must divest himself of such involvement or be removed from that position.

- E. Membership in Associations. DoD personnel who are members or officers of non-Governmental associations or organizations must avoid activities on behalf of the association or organization that are incompatible with their official Government positions (see DoD Directive 5500.2 (reference (g)) and DoD Instruction 5410.20 (reference (h))).
- F. Commercial Soliciting by DoD Personnel. To eliminate the appearance of coercion, intimidation, or pressure from rank, grade, or position, full time DoD personnel, except special Government employees, are prohibited from making personal commercial solicitations or sales to DoD personnel who are junior in rank or grade, at any time, on or off duty.
 - 1. This limitation includes, but is not limited to, the solicitation and sale of insurance, stocks, mutual funds, real estate, and any other commodities, goods, or services.
 - 2. This prohibition is not applicable to the one-time sale by an individual of his own personal property or privately owned dwelling or to the off-duty employment of DoD personnel as employees in retail stores or other situations not including solicited sales.
 - 3. For civilian personnel, the limitation applies only to personnel under their supervision at any level.
- G. Assignment of Reserves for Training. DoD personnel who are responsible for assigning Reserves for training shall not assign them to duties in which they will obtain information that could be used by them or their private sector employers to gain unfair advantage over civilian competitors.
- H. Prohibited Selling by Retired Officers. There are legal limitations on sales by retired Regular military officers to any component of the Department of Defense, Coast Guard, National Oceanic and Atmospheric Administration, or Public Health Service (see enclosure 2).
- I. Dealing with Present and Former Military and Civilian Personnel. DoD personnel shall not knowingly deal on behalf of the Government with present or former, military or civilian, Government personnel whose participation in the transaction would be in violation of a statute, regulation, or policy set forth in this Directive.

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VIII. GRATUITIES

- A. Policy Basis. The acceptance of gratuities by DoD personnel or their families, no matter how innocently tendered and received, from those who have or seek business with the Department of Defense and from those whose business interests are affected by Department functions (1) may be a source of embarrassment to the Department, (2) may affect the objective judgment of the DoD personnel involved, and (3) may impair public confidence in the integrity of the Government.
- B. General Prohibition. Except as provided in subsection C., below, DoD personnel and their immediate families shall not solicit, accept, or agree to accept any gratuity for themselves, members of their families, or others, either directly or indirectly from, or on behalf of, any source that:
1. Is engaged in or seeks business or financial relations of any sort with any DoD Component;
 2. Conducts operations or activities that are either regulated by a DoD Component or significantly affected by DoD decisions; or
 3. Has interests that may be substantially affected by the performance or nonperformance of the official duties of DoD personnel.
- C. Limited Exceptions. The general prohibition in subsection B., above, does not apply to the following:
1. The continued participation in employee welfare or benefit plans of a former employer when permitted by law and approved by the appropriate Standards of Conduct Counselor.
 2. The acceptance of unsolicited advertising or promotional items that are less than \$5 in retail value.
 3. Trophies, entertainment, prizes, or awards for public service or achievement or given in games or contests which are clearly open to the public generally or which are officially approved for DoD personnel participation.
 4. Things available to the public (such as university scholarships) covered by DoD Directive 1322.6 (reference (1)), and free exhibitions by Defense contractors at public trade fairs.
 5. Discounts or concessions extended Component-wide and realistically available to all personnel in the Component.
 6. Participation by DoD personnel in civic and community

activities when any relationship with Defense contractors is remote, for example, participation in a little league or Combined Federal Campaign luncheon which is subsidized by a Defense contractor.

7. Social activities engaged in by officials of a DoD Component and officers in command, or their representatives, with local civic leaders as part of community relations programs of the DoD Component in accordance with DoD Directive 5410.18 (reference (j)).
8. The participation of DoD personnel in widely attended gatherings of mutual interest to Government and industry, sponsored or hosted by industrial, technical, and professional associations (not by individual contractors) provided that they have been approved in accordance with DoD Instruction 5410.20 (reference (h)).
9. Situations in which (a) participation by DoD personnel at public ceremonial activities of mutual interest to industry, local communities, and the DoD Component concerned serves the interests of the Government; and (b) acceptance of the invitation is approved by the Head of the employing DoD Component, or his designee.
10. Contractor-provided transportation, meals or overnight accommodations in connection with official business when arrangements for Government or commercial transportation, meals, or accommodations are clearly impracticable. In any such case, the individual shall report in writing the circumstances to his supervisor as soon as possible.
11. Attendance at promotional vendor training sessions when the vendor's products or systems are provided under contract to DoD and the training is to facilitate the utilization of those products or systems by DoD personnel.
12. Attendance or participation of DoD personnel in gatherings, including social events such as receptions, which are hosted by foreign governments or international organizations, provided that the acceptance of the invitation is approved by the Head of the employing DoD Component, or his designee.
13. Situations in which, in the sound judgment of the individual concerned or his supervisor, the Government's interest will be served by DoD personnel participating in activities otherwise prohibited. In any such case, a written report of the circumstances shall be made in advance, or, when an advance report is not possible, within 48 hours by the individual or his supervisor to the appropriate Standards of Conduct Counselor (or designated Deputy Counselors).

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D. Reimbursements

1. The acceptance of accommodations, subsistence, or services, furnished in kind, in connection with official travel from sources other than those indicated in subsection VIII. B. is authorized only when the individual is to be a speaker, panelist, project officer, or other bona fide participant in the activity attended and when such attendance and acceptance is authorized by the order-issuing authority as being in the overall Government interest.
 2. Except as indicated in paragraph 1. of this subsection, DoD personnel may not accept personal reimbursement from any source for expenses incident to official travel, unless authorized by their supervisor consistent with guidance provided by the appropriate Standards of Conduct Counselor (pursuant to 5 U.S.C. 4111 (reference (k)) or other statutory authority). Rather, reimbursement must be made to the Government by check payable to the Treasurer of the United States. Personnel will be reimbursed by the Government in accordance with regulations relating to reimbursement.
 3. In no case shall DoD personnel accept, either in kind or for cash reimbursement, benefits which are extravagant or excessive in nature.
 4. When accommodations, subsistence, or services in kind are furnished to DoD personnel by non-U.S. Government sources, consistent with this subsection, appropriate deductions shall be reported and made in the travel, per diem, or other allowances payable.
- E. Procedures with respect to gifts from foreign governments are set forth in DoD Directive 1005.3 (reference (1)).
- F. Procedures with respect to ROTC Staff Members are set forth in DoD Directive 1215.8 (reference (a)).
- G. After the effective date of this Directive, DoD personnel who receive gratuities, or have gratuities received for them, in circumstances not in conformance with the standards of this Section shall promptly report the circumstances to the appropriate Standards of Conduct Counselor (or Deputy) for disposition determination.

IX. PROHIBITION OF CONTRIBUTIONS OR PRESENTS TO SUPERIORS

DoD personnel shall not solicit a contribution from other DoD personnel for a gift to an official superior, make a donation or a gift to an official superior, or accept a gift from other DoD personnel subordinate to themselves. However, this section does not prohibit voluntary gifts or contributions of nominal value on special

occasions such as marriage, illness, transfer, or retirement, provided any gifts acquired with such contributions shall not exceed a reasonable value.

X. USE OF GOVERNMENT FACILITIES, PROPERTY, AND MANPOWER

DoD personnel shall not directly or indirectly use, take, dispose, or allow the use, taking, or disposing of, Government property or facilities of any kind, including property leased to the Government, for other than officially approved purposes. Government facilities, property, and manpower (such as stationery, stenographic and typing assistance, mimeograph and chauffeur services) shall be used only for official Government business. DoD personnel have a positive duty to protect and conserve Government property. These provisions do not preclude the use of Government facilities for approved activities in furtherance of DoD community relations, provided they do not interfere with military missions or Government business. (See reference (j) for community relations guidance.)

XI. USE OF CIVILIAN AND MILITARY TITLES OR POSITIONS IN CONNECTION WITH COMMERCIAL ENTERPRISES

- A. All DoD personnel, excluding special Government employees, are prohibited from using their titles or positions in connection with any commercial enterprise or in endorsing any commercial product. This does not preclude author identification for materials published in accordance with DoD procedures.
- B. All retired military personnel and all members of Reserve components, not on active duty, are permitted to use their military titles in connection with commercial enterprises provided that they indicate their Inactive Reserve or retired status. However, if such use of military titles in any way casts discredit on the Military Departments or the Department of Defense or gives the appearance of sponsorship, sanction, endorsement, or approval by the Military Departments or the Department of Defense, it is prohibited. In addition, the Military Departments may further restrict the use of titles including use by retired military personnel and members of Reserve components, not on active duty, in overseas areas.

XII. OUTSIDE EMPLOYMENT OF DOD PERSONNEL

- A. DoD personnel shall not engage in outside employment or other outside activity, with or without compensation, that:
 1. Interferes with, or is not compatible with, the performance of their Government duties;
 2. May reasonably be expected to bring discredit on the Government or the DoD Component concerned; or

3. Is otherwise inconsistent with the requirements of this Directive, including the requirements to avoid actions and situations which reasonably can be expected to create the appearance of conflicts of interests.
- B. Enlisted military personnel on active duty may not be ordered or authorized to leave their post to engage in a civilian pursuit, business, or professional activity if it interferes with the customary or regular employment of local civilians in their art, trade, or profession.
- C. Off-duty employment of military personnel by an entity involved in a strike is permissible if the person was on the payroll of the entity prior to the commencement of the strike and if the employment is otherwise in conformance with the provisions of this Directive. After a strike begins and while it continues, no military personnel may accept employment by that involved entity at the strike location.
- D. DoD personnel are encouraged to engage in teaching, lecturing and writing. However, DoD personnel shall not, either for or without compensation, engage in activities that are dependent on information obtained as a result of their Government employment, except when (a) the information has been published or is generally available to the public, or (b) it will be made generally available to the public and the agency head gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.
- E. Civilian Presidential appointees shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to DoD responsibilities, programs, or operations or which draws substantially from official material which has not become part of the body of public information.

XIII. GAMBLING, BETTING, AND LOTTERIES

While on Government-owned, leased, or controlled property, or otherwise while on duty for the Government, DoD personnel shall not participate in any gambling activity, including a lottery or pool, a game for money or property, and the sale or purchase of a number slip or ticket. The only exceptions are for activities which have been specifically approved by the Head of the DoD Component.

XIV. INDEBTEDNESS

DoD personnel shall pay their just financial obligations in a

timely manner, particularly those imposed by law (such as Federal, State, and local taxes), so that their indebtedness does not adversely affect the Government as their employer. DoD Components are not required to determine the validity or amount of disputed debts.

XV. INFORMATION TO PERSONNEL

All DoD personnel, except enlisted personnel not required to file Statements of Affiliation and Financial Interests (DD Form 1555), shall be given a copy of this Directive or implementing DoD Component regulation and an oral standards of conduct briefing preceding employment or assumption of duties. Each individual receiving such briefing shall attest in writing to his attendance at the briefing, the fact that he has read the standards of conduct, and his comprehension of the requirements imposed. Enlisted personnel not required to file the Statement shall be given standards of conduct briefings and attest in writing to their attendance at such briefings. All DoD personnel shall be reminded at least semiannually of their duty to comply with required standards of conduct.

XVI. STANDARDS OF CONDUCT COUNSELORS

- A. The Head of each DoD Component shall designate a Standards of Conduct Counselor and one or more Deputy Counselors. Those designated shall be responsible for providing advice and assistance to their Components and to the personnel of those Components on all questions arising from the operation and implementation of this Directive. They shall also be responsible for the proper review, including audits, coordination, and advice regarding all standards of conduct problems.
- B. The General Counsel of the Department of Defense, or his designee, shall provide legal guidance and assistance to the Deputy Assistant Secretary of Defense (Administration), Office of the Assistant Secretary of Defense (Comptroller), or his designee, who shall be the Standards of Conduct Counselor for the Office of the Secretary of Defense, and to the Standards of Conduct Counselors of all DoD Components.
- C. The General Counsel, DoD, shall represent the Department of Defense to the Civil Service Commission on matters relating to standards of conduct.

XVII. REPORTING SUSPECTED VIOLATIONS

DoD personnel who have information which causes them to believe other DoD personnel have violated a statute or standard of conduct imposed by this Directive should first bring the matter

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to the attention of those persons. If those persons are one's supervisors or the communication is not expected to remedy or does not appear to have remedied the problem, a report shall be made to the appropriate authority and to the Standards of Conduct Counselor.

XVIII. RESOLVING VIOLATIONS

The resolution of standards of conduct violations shall be accomplished promptly by one or more measures, such as divestiture of conflicting interests, disqualification for particular assignments, changes in assigned duties, termination, or other appropriate action, as provided by statute or administrative procedures. Disciplinary actions shall be in accordance with established personnel procedures.

XIX. STATEMENTS OF AFFILIATIONS AND FINANCIAL INTERESTS (DD FORM 1555)

The following DoD personnel are required to submit initial and annual Statements of Affiliations and Financial Interests, DD Form 1555, unless they are expressly exempted. (See enclosure 3 for details on applicability and requirements.)

- A. All civilian DoD personnel paid at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade of GS-16, including the Executive Schedule.
- B. Officers of flag or general rank.
- C. Commanders and deputy commanders of major installations, activities, and operations, as determined by the Heads of the DoD Components.
- D. Board members of the Armed Service Board of Contract Appeals.
- E. DoD personnel classified at GS-13 or above, or at a comparable pay level under other authority, and members of the military in the rank of lieutenant colonel, commander, or above, when the responsibilities of such personnel require the exercise of judgment in making a Government decision or in taking Government action in regard to activities in which the final decision or action may have a significant economic impact on the interests of any non-Federal entity.
- F. Special Government employees (except those exempted in enclosure 3).
- G. Other DoD personnel who are required, with Civil Service Commission approval, to file such Statements.

XX. NONDISQUALIFYING FINANCIAL INTEREST

DoD personnel need not disqualify themselves under subsection VII. D. for holding shares of a widely held, diversified mutual fund or regulated investment company. In accordance with the provisions of 18 U.S.C. 208b(2) (reference (f)), such holdings are hereby exempted as being too remote or inconsequential to affect the integrity of the services of Government personnel.

XXI. DOD-RELATED EMPLOYMENT REPORTING

Preemployment and postemployment reporting requirements concerning defense-related employment are covered in DoD Directive 7700.15 (reference (n)).

XXII. REQUIRED STATEMENT OF EMPLOYMENT (DD FORM 1357)

- A. Each retired Regular officer of the Armed Forces shall file with the Military Department in which he holds retired status a Statement of Employment (DD Form 1357 - see enclosure 4). Each Regular officer retiring hereafter shall file this Statement within 30 days after retirement. Whenever the information in the Statement is changed, each such officer shall file a new DD Form 1357 within 30 days of that change.
- B. The Military Departments shall review the Statements of Employment as required to assure compliance with applicable statutes and regulations.

XXIII. DELEGATION OF AUTHORITY

The General Counsel, DoD, is authorized to modify or supplement any of the enclosures to this Directive in a manner consistent with the policies set forth in this Directive.

XXIV. EFFECTIVE DATE AND IMPLEMENTATION

This Directive shall become effective on date of publication in the Federal Register. Two copies of implementing regulations shall be forwarded to the General Counsel, DoD, for approval prior to promulgation, within 60 days.


Secretary of Defense

Enclosures - 4

- 1. References
- 2. Digest of Laws
- 3. Requirements for Submission of DD Form 1555
- 4. DD Form 1357

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REFERENCES (Cont'd)

- (b) Executive Order 11222, May 8, 1965
- (c) Civil Service Commission Regulation, "Employee Responsibilities and Conduct" (5 CFR 735)
- (d) House Concurrent Resolution 174, 85th Congress
- (e) DoD Directive 1100.15, "The Department of Defense Equal Opportunity Program," June 3, 1976
- (f) 18 United States Code 207, 208
- (g) DoD Directive 5500.2, "Policies Governing Participation of Department of Defense Components and Personnel in Activities of Private Associations," August 4, 1972 (37 F.R. 16674)
- (h) DoD Instruction 5410.20, "Public Affairs Relations with Business and Nongovernmental Organizations Representing Business," January 16, 1974
- (i) DoD Directive 1322.6, "Fellowships, Scholarships, and Grants for Members of the Armed Forces," April 27, 1963
- (j) DoD Directive 5410.18, "Community Relations," July 3, 1974
- (k) 5 United States Code 4111
- (l) DoD Directive 1005.3, "Decorations and Gifts from Foreign Governments," September 16, 1967
- (m) DoD Directive 1215.8, "Policies Relating to Senior Reserve Officers' Training Corps (ROTC) Programs," May 1, 1974
- (n) DoD Directive 7700.15, "Reporting Procedures on Defense Related Employment," October 30, 1970
- (o) Federal Personnel Manual, Chapter 304

DIGEST OF LAWS

Conflict of Interest Laws

I. 18 U.S.C. 203

Subsection (a) prohibitions are encompassed by prohibitions in 18 U.S.C. 205 below. Subsection (b) makes it unlawful to offer or pay compensation, the solicitation or receipt of which is barred by subsection (a).

II. 18 U.S.C. 205

A. This section prohibits Government personnel from acting as agent or attorney for anyone else before a department, agency, or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

B. The following exemptions are allowed:

1. Section 205 does not prevent Government personnel from giving testimony under oath or making statements required to be made under penalty of perjury or contempt or from representing another person, without compensation, in a disciplinary, loyalty, or other personnel matter.
2. Section 205 also authorizes a limited waiver of its restrictions and those of section 203 for the benefit of an officer or employee, including a special Government employee, who represents his own parents, spouse, or child, or a person or estate he serves as a fiduciary. The waiver is available only if approved by the official making appointments to the position. In no event does the waiver extend to his representation of any such person in matters in which he has participated personally and substantially or which, even in the absence of such participation, are the subject of his official responsibility.
3. Finally, section 205 gives the Head of a department or agency the authority to allow a special Government employee to represent his regular employer or other outside organization in the performance of work under a Government grant or contract, if the department or agency head certifies and publishes in the Federal Register, that the national interest requires such representation.

III. 18 U.S.C. 208

A. Subsection (a) requires executive branch personnel to refrain from participating as Government personnel in any matter in which they, their spouses, minor children, or partners have

financial interests or in which businesses or nonprofit organizations with which such personnel are connected or are seeking employment have financial interests. A "particular matter" may be less concrete than an actual contract, but is something more specific than rule making or abstract scientific principles. The test is whether the individual might reasonably anticipate that his Government action, or the decision in which he participates or with respect to which he advises, will have a direct and predictable effect upon such financial interests.

- B. Subsection (b) permits agencies to grant an ad hoc exemption from subsection (a) if the outside financial interest is deemed not substantial enough to affect the integrity of Government services. Categories of financial interests may also be made nondisqualifying by a general regulation published in the Federal Register.

IV. 18 U.S.C. 209

Subsection (a) prevents executive branch personnel from receiving, and anyone from paying them, any salary or supplementation of salary from a private source as compensation for their Government service. Subsection (b) permits participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer. Subsection (c) exempts special Government employees and anyone serving the Government without compensation. Subsection (d) exempts contributions, awards, or other expenses under the Government Employees Training Act (5 U.S.C. 2301-2319).

V. 37 U.S.C. 801 (a), 10 U.S.C. 6112 (a), APPLICABLE TO REGULAR NAVY AND MARINE CORPS OFFICERS

A Regular Navy or Regular Marine Corps officer on active duty may not be employed by anyone furnishing naval supplies or war materials to the United States. If such an officer is so employed he is not entitled to any payment from the United States during that employment.

VI. 18 U.S.C. 207, APPLICABLE TO FORMER DOD PERSONNEL

- A. Subsection (a) permanently prohibits former DoD personnel from acting as agent or attorney for anyone other than the United States in connection with matters involving a specific party or parties in which (1) the United States has a direct and substantial interest, and (2) the former personnel participated personally and substantially while holding a Government position.
- B. For 1 year after having had related official responsibilities, former DoD personnel are prohibited from personal appearances before a court, department, or agency of the Government as agent or attorney for anyone other than the United States Government (subsection (b)).

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- C. Past participation in or official responsibility for general rule making, the formulation of general policy or standards, or other similar matters does not disqualify former personnel. Similarly, in the scientific field past participation in discussions of scientific or engineering concepts, the feasibility of scientific or technical accomplishments, or proposed Government programs in the early stages prior to the formulation of a contract or a contract proposal where specific parties become involved in a matter, does not disqualify the former personnel from representation with respect to a contract entered into at a later time even though the same general scientific matters may be involved in such a contract.
- D. Neither subsection precludes postemployment activities which are no more than aiding or assisting another. A person who leaves the department to accept private employment may, for example, immediately perform technical work on a contract for which he had official responsibility. On the other hand, he is forbidden for a year to appear personally before the department as the agent or attorney of his company in connection with a dispute over the terms of the contract. He may at no time appear personally before the department or otherwise act as agent or attorney for his company in such dispute if he helped negotiate the contract.

VII. SUMMARY OF LAWS PARTICULARLY APPLICABLE TO RETIRED REGULAR OFFICERS

A. Prohibited Activities

1. Claims. A retired Regular officer of the Armed Forces may not, within 2 years of his retirement, act as agent or attorney for prosecuting any claim against the Government, or assist in the prosecution of such a claim, or receive any gratuity or any share of, or interest in, such a claim in consideration for having assisted in the prosecution of such a claim, if such claim involves the Military Department in whose service he holds a retired status. Nor may a Regular retired officer at any time act as an agent or attorney for prosecuting any claim against the Government or assist in prosecution of such claim, or receive any gratuity or any share of, or interest in, such claim in consideration for having assisted in the prosecution of such claim, if such claim involves any subject matter with which he was directly connected while on active duty (see 18 U.S.C. 283).
2. Selling
 - a. A retired Regular officer is prohibited, at all times, from representing any person in the sale of anything to the Government through the Military Department in whose service he holds a retired status (see 18 U.S.C. 281).

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LAWS APPLICABLE TO DOD PERSONNEL

There are legal prohibitions concerning the following activities which may subject present and former DoD personnel to criminal or other penalties:

- A. Aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime under any criminal statute (see 18 U.S.C. 201).
- B. Concealing or failing to report to proper authorities the commission of a felony under any criminal statute if such personnel knew of the actual commission of the crime (see 18 U.S.C. 4).
- C. Conspiring with one or more persons to commit a crime under any criminal statute or to defraud the United States, if any party to the conspiracy does any act to effect the object of the conspiracy (see 18 U.S.C. 371).
- D. Lobbying with appropriated funds (see 18 U.S.C. 1913).
- E. Disloyalty and striking (see 5 U.S.C. 7311, 18 U.S.C. 1918).
- F. Disclosure of classified information (see 18 U.S.C. 793, 50 U.S.C. 783); and disclosure of confidential information (see 18 U.S.C. 1905).
- G. Habitual use of intoxicants to excess (see 5 U.S.C. 7352).
- H. Misuse of a Government vehicle (see 31 U.S.C. 638a(c)(2)).
- I. Misuse of the franking privilege (see 18 U.S.C. 1719).
- J. Deceit in an examination or personnel action in connection with Government employment (see 18 U.S.C. 1917).
- K. Committing fraud or making false statements in a Government matter (see 18 U.S.C. 1001).
- L. Mutilating or destroying a public record (see 18 U.S.C. 2071).
- M. Counterfeiting and forging transportation requests (see 18 U.S.C. 508).
- N. Embezzlement of Government money or property (see 18 U.S.C. 641); failing to account for public money (see 18 U.S.C. 643); and embezzlement of the money or property of another person in the possession of an employee by reason of his Government employment (see 18 U.S.C. 654).
- O. Unauthorized use of documents relating to claims from or by the Government (see 18 U.S.C. 285).

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- P. Certain political activities (see 5 U.S.C. 7321-7327 and 18 U.S.C. 602, 603, 607, and 608). These statutes apply to civilian employees; regulations govern military personnel.
- Q. Any person who is required to register under the Foreign Agents Registration Act of 1938 (see 18 U.S.C. 219) may not serve the Government as an officer or employee. The section does not apply to (1) Reserves who are not on active duty or who are on active duty for training, or (2) a special Government employee in any case in which the department head certifies to the Attorney General that his employment by the United States Government is in the national interest.
- R. Soliciting contributions for gifts or giving gifts to superiors, or accepting gifts from subordinates (see 5 U.S.C. 7351).
- S. Acceptance of excessive honorariums (see 2 U.S.C. 441 (1)).
- T. Acceptance, without statutory authority of any office or title, of any kind whatever, from any king, prince, or foreign state by any person holding any office of profit in or trust of the Federal Government, including all retired military personnel. (U.S. Constitution, Art. I, Sec. 9.)

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REQUIREMENTS FOR SUBMISSION OF DD FORM 1555 STATEMENTS

- A. DoD Personnel Required to Submit Statements. DoD personnel required to file Statements of Affiliations and Financial Interests (DD Form 1555) are those indicated in section XIX., of the basic Directive. DD Form 1555 is at attachment 1, this enclosure.
- B. Review of Positions. Each DoD Component shall include in the description of each position indicated in section XIX. of the Directive a statement that the incumbent of the position must file a Statement of Affiliations and Financial Interests as required by this Directive. All positions shall be reviewed at least annually to determine those which require Statements. Any individual may request a review of the decision requiring him to file a Statement through the established complaint procedures of the DoD Component.
- C. Exclusion of Positions. Heads of DoD Components, or their designees, may determine that the submission of Statements is not necessary for certain positions because of the remoteness of any impairment of the integrity of the Government and the degree of supervision and review of the incumbents' work.
- D. Manner of Submission of Statements
 - 1. The Secretary of Defense is required to submit his Statement to the Chairman of the Civil Service Commission in accordance with the provisions of section 401 of Executive Order 11222 (reference (b)).
 - 2. All DoD civilian Presidential appointees and Directors of Defense Agencies shall submit their Statements to the DoD General Counsel.
 - 3. Personnel of the Office of the Secretary of Defense (OSD) and the Organization of the Joint Chiefs of Staff shall submit their Statements through their superiors for review and forwarding to the OSD Standards of Conduct Counselor.
 - 4. Military Department and Defense Agency personnel shall submit their Statements through their immediate supervisors for review and forwarding to officials of the Military Departments or Defense Agencies designated in the regulations of those Departments and Agencies.
 - 5. Commanders of Unified Commands shall submit their Statements directly to the OSD Standards of Conduct Counselor. Other personnel of the Unified Commands shall submit their Statements through their supervisors to the Deputy Command Counselor in the Office of the Legal Advisor to the Unified Command. Commanders who have a dual responsibility as commanders of both joint commands and components shall submit their Statements through Service channels.

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6. All Statements shall be reviewed and approved by the appropriate Standards of Conduct Counselor or Deputy Counselor and the appropriate supervisor prior to the commencement of service or assumption of duties and annually thereafter as prescribed in subsection G. of this enclosure. Designees to positions requiring the approval of the Secretary of Defense or the Secretary of a Military Department shall execute the Statement in advance of nomination so that it may be thoroughly reviewed prior to appointment.
 7. Agreements with other DoD Components and Government agencies involving detailing of DoD personnel shall contain a requirement that the other DoD Component or Government agency shall, within 60 days, forward to the parent DoD Component's Standards of Conduct Counselor a copy of the detailed individual's Statement, if required, and notice concerning the disposition of any conflict or apparent conflict of interests indicated.
- E. Excusable Delay. When required by reason of duty assignment or infirmity a superior may grant an extension of time with the concurrence of the Standards of Conduct Counselor or Deputy Counselor. Any extension in excess of 30 days requires the concurrence of the Head of the DoD Component concerned, or his designee. Any late Statement shall include appropriate notation of any extension of time granted hereunder.
- F. Special Government Employees (as defined in subsection III.C., of the Directive)
1. Each special Government employee shall, prior to appointment, file a Statement of Affiliations and Financial Interests.
 2. The following are exempted categories of special Government employees who are not required to file Statements unless specifically requested to do so:
 - a. Physicians, dentists, and allied medical specialists engaged only in providing service to patients.
 - b. Veterinarians providing only veterinary services.
 - c. Lecturers participating in educational activities.
 - d. Chaplains performing only religious services.
 - e. Individuals in the motion picture and television fields who are utilized only as narrators or actors in DoD productions.
 - f. Members of selection panels for NROTC candidates.
 - g. A special Government employee who is not a "consultant"

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or "expert" as those terms are defined in the Federal Personnel Manual, Chapter 304 (reference (c)).

3. The Secretary or a Deputy Secretary of Defense or the Secretary of a Military Department may grant an exemption to an appointee from the requirement of filing a Statement upon a determination that such information is not relevant in light of the duties the appointee is to perform.
- G. Annual Statements. DD Form 1555 Statements shall be filed by October 31st of each year for all affiliations and financial interests as of September 30th of that year. Even though no changes occur, a complete Statement is required. All DoD Components shall notify the Office of the Secretary of Defense Standards of Conduct Counselor no later than December 31st of each year that all required Statements have been filed, reviewed and any problems appropriately resolved or explain the details of the outstanding cases.
- H. Interests of Relatives of DoD Personnel. The interest of a spouse or minor child, or any member of one's household is to be reported in the same manner as an interest of the individual.
- I. Information Not Known by DoD Personnel. DoD Personnel shall request submission on their behalf of required information known only to other persons. The submission may be made with a request for confidentiality that will be honored even if it includes a limitation on disclosure to the DoD personnel concerned.
- J. Information Not Required to be Submitted. DoD personnel are not required to submit on a Statement any information relating to their connection with or interest in a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business for profit. For the purpose of this Directive, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are to be included in a person's Statement.
- K. Confidentiality of Statements of DoD Personnel. DoD Components shall hold each Statement in confidence. A Component may not disclose information from a Statement except as the Component head or the Civil Service Commission may determine for good cause. "Good cause" includes a determination that the record or any part of the record must be released under the Freedom of Information Act. Persons designated to review the Statements are responsible for maintaining the Statements in confidence and shall not allow access to or disclosure from the Statements except to carry out the purpose of this Directive.
- L. Disqualification. See subsection VII.D., of the basic Directive for requirements concerning disqualification.

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- M. Effect of Statements on Other Requirements. The Statements required of DoD personnel are in addition to, and not in substitution for, any similar requirement imposed by law, order, or regulation. Submission of Statements does not permit DoD personnel to participate in matters in which their participation is prohibited by law, order, or regulation.

Attachment-1
DD Form 1555

Jan 15, '77

DATA RELEASED BY THE PRIVACY ACT OF 1976

DATE RECEIVED BY THE PRIVACY ACT OF 1974

DATE RECORDED BY THE PRIVACY ACT OF 1974

11 TIMING (Y)[illegible]

TRANS ID # PL 440256

Information is requested from custodian of DoD personnel specified in DoD Directive 1000: Section 1.1.1 or implementing regulation to determine - personnel and other individuals who are or were in the line of duty whether they are actual or apparent victims of crimes covered by the index. - persons and organizations with duties and non federal affiliations of federal interests

MULTIPLE CHOICE

This information shall be treated as confidential except as determined by the competent head concerned in the Civil Service Commission.

UNCLAS:SI:RR

There is a tendency in the sense that we cannot measure with freedom from refusal to the Member the refusal to provide relevant information. This may result in both reduction of confidence of the individual for the organization, non-payment of dues, resignation or termination of membership.

1. 40000 2. 10000 3. 10000 4. 10000

2 FEB 04 09:51 AM

SECRET

சென்னை நகராட்சித் துறைமுகப் பகுதி

PART 1 TO BE COMPLETED BY THOSE DOD PERSONNEL INDICATED IN SECTION XIX OF DOD DIRECTIVE 5007 OR IMPLEMENTING REGULATION

NON FINANCIAL AFFILIATIONS AND FINANCIAL INTERESTS: The names of a spouse, minor child and any member of your household shall be reported in the same manner as your interests. List the names of all corporations, firms, partnerships and other business organizations, nonprofit organizations, labor unions, and other associations. List the positions you are or have held in each of these affiliations. List the names of the persons who are or have been your partner, spouse, representative, or consultant, in a position as to the firm or in having any understanding of plans for future activities. List the names you have any continuing financial interests, such as through a pension or retirement plan, shared income, operating ownership, partnership, or management, as a result of any current or past employment or service in the government, or any other organization, or as a result of any interest through the issue of beneficial ownership of such a stock option, bond, certificate, or other beneficial instrument upon which any financial interest may be claimed.

microphone in communication with you but had more left thing. If not, then
"None"

Agreement with, or contrary to, a professional obligation, religious, moral, fraternal, recreational, public service, civil, or political organization not associated for profit and which is not engaged in exercise of conduct of a business for profit is not required. Educational and other institutions doing research and development or related work, deriving funds from or revenues with the Government are to be included in this report.

Adjustments of financial records need not be reported unless specifically requested by the Standards of Conduct Committee or Deputy Committee. For requested information not known to you but known to another person, you are required to request all information on your behalf.

4-6000 4-7000 OF 8000-9000

▲ 中国书画函授大学

**POSITIVE OR NEGATIVE
(Number of answers)**

மாநிலப் பேரவைத் தலைவர் அவர்களே,

SAMPLE

0 CREDITORS List of creditors other than those providing or extending conventional loans on customary commercial terms if none, write "NONE."

NAME AND ADDRESS OF CREDITOR

REPORT OF THE

DD FORM 1555
JAN 17 1955

PAGE WILL BE OPEN IN 60 SECONDS?

INTERESTS IN REAL PROPERTY (If any interest in real property which is personal residence is so insured, there may only be one listing, period, or prospective listing, regardless of insured status. If none, enter "NONE".)				
NAME OF PROPERTY	TYPE OF PROPERTY	ADDRESS		
3. INFORMATION REQUESTED FROM OTHER PERSONS (If any information is to be supplied by other persons or a record officer, unrecorded records, indicate name and address of each person to which the requested information and where it should be received. If none, enter "NONE".)				
NAME AND ADDRESS	DATE OF REQUEST	SUBJECT MATTER		
		SAMPLE		
PART II. ADDITIONAL INFORMATION TO BE FURNISHED ONLY BY "SPECIAL GOVERNMENT EMPLOYEES"				
(Temporary or full-time, without or continuous, as performed in Section III of this form, if it is performing regularly)				
4. ESTIMATE THE NUMBER OF DAYS ON WHICH SERVICES ARE EXPECTED TO BE PERFORMED				
a. WITH EMPLOYING GSC COMPONENT		b. WITH OTHER FEDERAL AGENCIES		
c. NUMBER OF DAYS WORKED FOR GSC DURING THE 100 DAYS PRECEDING DATE OF CURRENT ASSIGNMENT		d. NUMBER OF DAYS WORKED FOR EMPLOYING GSC COMPONENT DURING THE 100 DAYS PRECEDING DATE OF CURRENT ASSIGNMENT		
5. FEDERAL GOVERNMENT EMPLOYMENT (List all other GSC Components and Federal agencies in which you are presently employed. If none, enter "NONE".)				
COMPONENT OR AGENCY AND LOCATION	TITLE OR RANK OR POSITION	EMPLOYMENT PERIOD		ESTIMATED NUMBER OF DAYS
		From	To	
I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief, and that I have read and understood the contents of GSC Directive 5500.7 as implemented by my employing GSC Component's regulations.				
Signature		Date		
SUPERVISOR'S EVALUATION (The supervisor is to fill out this section, and return it to the employee.)				
I have reviewed the above statements in light of the present and prospective duties of the individual to whom this form is issued and reported conflicts of interest and avoided. My conclusion is:				
<input type="checkbox"/> No affiliation/financial interest reported. <input type="checkbox"/> Reported affiliation/financial interest are disclosed in a signed or prospective duty, and no conflicts appear to exist. <input type="checkbox"/> Signed duties require participation in matters involving or which may involve the following reported affiliation/financial interest. The conflict or apparent conflict will be resolved by: <input type="checkbox"/> Change in assigned duties. <input type="checkbox"/> Disclosure of the interest and level of involvement from all related duties pending resolution. <input type="checkbox"/> Disqualification. <input type="checkbox"/> Other response: A copy of my advice is attached. Years of completed remedial action will follow. <input type="checkbox"/> The following reported affiliation/financial interest are related to assigned or prospective duties, but have been disclosed by the appropriate supervising official to be not so substantial as to affect the integrity of the individual's actions. A copy of this formal determination and rationale is attached. <input type="checkbox"/> The prospective employee's duties will require participation in matters involving the following reported affiliation/financial interest, and the appropriate means for resolution and disclosure of these interests is completed.				
Signature of Supervisor		Print of FPO name and title		Date
STANDARDS OF CONDUCT COUNSELLOR/DEPUTY COUNSELLOR REVIEW (To be completed by the Standards of Conduct Council, if it is performing regularly)				
As a duly designated counsellor for the Party Committee, I have reviewed the foregoing Statements and Evaluations.				
<input type="checkbox"/> I concur with the supervisor's evaluation. <input type="checkbox"/> I do not concur with the supervisor's evaluation and recommend the following action:				
Signature		Date		

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STATEMENT OF EMPLOYMENT (Regular Retired Officers)	
DATA REQUIRED BY THE PRIVACY ACT	
AUTHORITY	37 U.S.C. 801 (c) and 5 U.S.C. 5532
PRINCIPAL PURPOSES	Information is required from retired regular officers to enable Department of Defense personnel to determine whether such officers are engaged in activities prohibited by law or regulation, including those that could result in the loss of retired pay or a reduction in retired pay due to other Federal employment.
ROUTINE USES	The information supplied on this form is forwarded to the Military Department in which the individual holds a retired status and is appropriately reviewed to assure compliance with applicable statutes and regulations.
DISCLOSURE	Disclosure of the requested information is voluntary in the sense that no criminal penalties will follow from failure to file. However the information requested by this form is required to enable the Department of Defense to implement 37 U.S.C. 801 (c) and 5 U.S.C. 5532. If the information is not provided, further investigation will ensue which may lead to the withholding of retired pay and the referral of the matter to the Comptroller General of the United States or other Federal agencies.
1. I am a regular retired officer of the _____ (Department) and was retired on _____ (Date)	
2. I <input type="checkbox"/> am <input type="checkbox"/> am not employed. (If employed, or self employed, complete the rest of this item, if more than one employer, list complete information for each employer on a separate sheet.)	
a. My employer's name and address is _____	
b. My employer sells, or offers for sale, to agencies (including nonappropriated fund activities) of the Department of Defense, the Coast Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service, the following types of products or services: _____	
3. If item 2 b is answered in the affirmative, complete this item:	
a. My position title is _____	
b. My duties are, briefly (a complete description of your job, a copy of your employment contract, or any other pertinent information, may be attached): <div style="text-align: center; font-size: 2em; font-weight: bold;">SAMPLE</div>	
c. My duties include one or more of the following activities in regard to an agency specified in item 2.b: (1) signing a bid, proposal, or contract, (2) negotiating a contract, (3) contacting an officer or employee of the agency for the purpose of (i) obtaining or negotiating contracts, (ii) negotiating or discussing changes in specifications, price, cost allowances, or other terms of a contract, or (iii) settling disputes concerning performance of a contract, or (4) any other liaison activity with a view toward the ultimate consummation of a sale even though the actual contract therefor is subsequently negotiated by another person. <input type="checkbox"/> No <input type="checkbox"/> Yes (If answered in the affirmative, attach explanatory details)	
4. I have received a copy of DoD Directive 5500.7 or the regulation issued by my department implementing that Directive.	
5. I will file a new Statement of Employment within 30 days after the information in this Statement has ceased to be accurate. I understand that if I have been retired for less than three years and have been employed by a defense contractor, I might also be subject to the requirement to file a Report of DoD and Defense Related Employment (DD Form 1787) pursuant to 50 USC 1436 and DoD Directive 7700.15.	
SIGNATURE	DATE
NAME (Typed or printed)	FILE/SSN

DD FORM 1 JAN 77 1357

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

5500.7 (Encl 4)
Jan 15, 77

STATEMENT OF EMPLOYMENT (Regular Retired Officers)	
DATA REQUIRED BY THE PRIVACY ACT	
AUTHORITY	37 U.S.C. 601 (c) and 5 U.S.C. 5532
PRINCIPAL PURPOSES	Information is required from retired regular officers to enable Department of Defense personnel to determine whether such officers are engaged in activities prohibited by law or regulation, including those that could result in the loss of retired pay or a reduction in retired pay due to other Federal employment.
ROUTINE USES	The information supplied on this form is forwarded to the Military Department in which the individual holds a retired status and is appropriately reviewed to assure compliance with applicable statutes and regulations.
DISCLOSURE:	Disclosure of the requested information is voluntary in the sense that no criminal penalties will follow from failure to file. However, the information requested by this form is required to enable the Department of Defense to implement 37 U.S.C. 601 (c) and 5 U.S.C. 5532. If the information is not provided, further investigation will ensue which may lead to the withholding of retired pay and the referral of the matter to the Comptroller General of the United States or other Federal agencies.
1. I am a regular retired officer of the _____, and was retired on _____ (Department) (Date)	
2. I <input type="checkbox"/> am <input type="checkbox"/> am not employed. (If employed, or self employed, complete the rest of this item; if more than one employer, list complete information for each employer on a separate sheet)	
a. My employer's name and address is _____	
b. My employer sells, or offers for sale, to agencies (including nonappropriated fund activities) of the Department of Defense, the Coast Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service, the following types of products or services: _____	
3. If item 2.b is answered in the affirmative, complete this item:	
a. My position title is _____	
b. My duties are, briefly (a complete description of your job, a copy of your employment contract, or any other pertinent information, may be attached): <div style="text-align: center; font-size: 2em; font-weight: bold;">SAMPLE</div>	
c. My duties include one or more of the following activities in regard to an agency specified in item 2.b: (1) signing a bid, proposal, or contract, (2) negotiating a contract, (3) contacting an officer or employee of the agency for the purpose of (i) obtaining or negotiating contracts, (ii) negotiating or discussing changes in specifications, price, cost allowances, or other terms of a contract, or (iii) settling disputes concerning performance of a contract, or (4) any other liaison activity with a view toward the ultimate consummation of a sale even though the actual contract therefor is subsequently negotiated by another person. <input type="checkbox"/> No <input type="checkbox"/> Yes (If answered in the affirmative, attach explanatory details)	
4. I have received a copy of DoD Directive 5500.7 or the regulation issued by my department implementing that Directive.	
5. I will file a new Statement of Employment within 30 days after the information in this Statement has ceased to be accurate. I understand that if I have been retired for less than three years and have been employed by a defense contractor, I might also be subject to the requirement to file a Report of DoD and Defense Related Employment (DD Form 1787) pursuant to 50 USC 1436 and DoD Directive 7700.15.	
SIGNATURE	DATE
NAME (Typed or printed)	FILE/SSN

DD FORM 1 JAN 77 1357

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

STUDY GUIDE APPENDIX C

DEPARTMENT OF THE NAVY
Office of the Secretary
Washington, D.C. 20360

SECNAVINST 5370.2G
JAG/OGC
4 August 1977

SECNAV INSTRUCTION 5370.2G

From: Secretary of the Navy
To: All Ships and Stations

Subj: Standards of conduct

Ref: (a) DOD Dir. 5500.7 of 18 Jan 1977,
Standards of Conduct (implemented
hereby)

Encl: (1) Digest of laws
(2) DD Form 1555
(3) DD Form 1357

1. Purpose. This instruction implements and supplements reference (a) in prescribing required standards of ethical conduct governing all personnel of the Department of the Navy; related requirements applicable to all personnel of certain categories in the Department of the Navy; amplifying policies for the guidance of personnel in interpreting and executing the standards of conduct and related requirements; and responsibilities and procedures for monitoring and enforcing compliance with the standards of conduct and related requirements within the Department of the Navy.

2. Cancellation. SECNAV Instruction 5370.2F of 6 May 1976 is superseded.

3. Scope and Effect

a. Applicability. The provisions of this instruction apply to all naval personnel as defined in subparagraph 4a. The provisions of subparagraph 61 (2) apply to all retired naval personnel and members of Reserve components. The provisions of paragraph 12 also apply to all retired Regular Officers.

b. Violations. The regulations prescribed in paragraph 6 of this instruction are a general order upon which disciplinary or punitive proceedings may be based in appropriate cases. Noncompliance with other provisions of this instruction are expected to be corrected by timely and appropriate administrative measures.

4. Definitions

a. Naval personnel. All civilian officers and employees and all active-duty military personnel of the Department of the Navy, including special Government employees and personnel of nonappropriated fund instrumentalities.

b. DoD components. The Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies, including nonappropriated fund instrumentalities.

c. Special government employee. A person who is retained, designated, appointed, or employed to perform, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, temporary duties, on either a full-time or intermittent basis. The term also includes a Reserve officer while on active duty solely for training for any length of time, one who is serving on active duty involuntarily for any length of time, and one who is serving voluntarily on extend active duty for 130 days or less. It does not include enlisted personnel.

d. Gratuity. Any gift, favor, entertainment, hospitality, transportation, loan, any other tangible item, and any intangible benefit—for example, discounts, passes, and promotional vendor training—given or extended to, or on behalf of, naval personnel or their spouses, minor children, or households, for which fair market value is not paid by the recipient or the U.S. Government.

e. Appropriate supervisor. That superior within the chain of authority who is acquainted with the duties of the naval personnel concerned and can best determine the existence and effect of any conflict of interests of such personnel. Ordinarily, this will be the immediate superior of the person concerned. Each commanding officer or activity head should ensure that all personnel are aware of the identity of their appropriate supervisor.

5. General policies governing the conduct of naval personnel

a. Proper conduct of official activities

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(1) Naval personnel shall become familiar with the scope of authority for, and the limitations concerning, the activities for which they have responsibilities.

(2) The attention of naval personnel is directed to the statutory prohibitions which apply to the conduct of naval personnel. See enclosure (1).

(3) Naval personnel shall not make or recommend any expenditure of funds or take or recommend any action known or believed to be in violation of U.S. laws, Executive Orders, or applicable directives, instructions, or regulations.

(4) In cases of doubt of the propriety of a proposed action or decision in terms of regulation or law, naval personnel shall consult legal counsel or, if appropriate, a Standards of Conduct Counselor or Deputy Counselor to ensure the proper and lawful conduct of naval programs and activities.

b. **Conduct prejudicial to the Government.** Naval personnel shall avoid any action, whether or not specifically prohibited by this instruction, which might result in or reasonably be expected to create the appearance of:

- (1) Using public office for private gain,
- (2) Giving preferential treatment to any person or entity,
- (3) Impeding Government efficiency or economy,
- (4) Losing complete independence or impartiality,
- (5) Making a Government decision outside official channels, or
- (6) Adversely affecting the confidence of the public in the integrity of the Government.

c. **Standards of personal judgment.** All naval personnel will adhere strictly to the standards of conduct and related requirements prescribed in this instruction. In some instances, standards are imposed which require the exercise of personal judgment. Naval personnel must consider each such instance carefully and be pre-

pared to account for the manner in which the judgment is exercised. This is particularly true in situations which involve acceptance of hospitality or favors from persons or entities who do, or seek to do, business with the Department of Defense.

d. **Dealings with business and industry representatives.** Persons who represent the Government in business dealings with representatives of industry have positions of trust and grave responsibility which require them to observe the highest ethical standards. Practices which may be accepted in the private business world are not necessarily acceptable for naval personnel. No person will allow himself to be placed in a position in which a conflict of interests might arise or might justifiably be suspected. Such a conflict of interests may arise or appear to arise by reason of the acceptance of gratuities, or by any other action which could influence or reasonably be interpreted as influencing the strict impartiality that must prevail in all business relationships involving the Government. Strict impartiality is often particularly difficult to maintain when business relationships are allowed to become overly personal. Naval personnel should at all times ensure that persons doing business or attempting to do business with the Department of Defense, or representing such entities, are not permitted to ingratiate themselves to the extent that naval personnel hesitate to deny requests for special treatment made by such persons or otherwise to follow the rule of strict impartiality when dealing with such persons in their official capacities. Acceptance of gratuities (no matter how innocently tendered or received) from those who have or seek business dealings with the Department of the Navy may be a source of embarrassment to the department and to the naval personnel involved, may affect the objective judgment of the recipient, and may impair public confidence in the integrity of business relations between the department and industry. It is emphasized that prohibited conflicts and apparent conflicts of interests can sometimes arise even from relationships and transactions which the personnel concerned perceive as inconsequential. Where there is doubt as to the propriety of accepting gratuities, attending functions, or accepting other invitations of a hospitable nature, naval personnel will refrain therefrom.

e. **Preferential treatment.** Special treatment must not be accorded to particular individuals or firms unless

equivalent treatment is also accorded to other individuals or firms justifiably entitled thereto.

f. Acquiring conflicting financial interests. Notwithstanding the fact that they may have filed confidential statements of affiliations and financial interests (106 Form 1555), naval personnel must at all times avoid acquiring or retaining financial interests which would disqualify them from performing their assigned duties or responsibilities. Some of the more likely situations in which conflicts of interests might arise are where naval personnel have Government duties or responsibilities related to business entities—

(1) with which they, or their spouses, minor children, or household members are associated as employees, officers, owners, directors, members, trustees, partners, advisers, or consultants;

(2) with which they, or their spouses, minor children, or household members are negotiating or have arrangements for prospective employment; or

(3) in which they, or their spouses, minor children, or household members have interests through ownership of stock options, bonds, securities or other financial arrangements, such as trusts, or through participation in pension or retirement plans.

g. Membership in associations. Naval personnel who are members or officers of non-Governmental associations or organizations must avoid activities on behalf of the association or organization that are incompatible with their official Government positions. SECNAVINST 5760.4 (series) sets forth the Department of the Navy policy regarding participation by naval activities and naval personnel in the activities of private associations.

h. Equal opportunity. Naval personnel shall scrupulously adhere to the DoD program of equal opportunity regardless of race, color, religion, sex, age, or national origin, in accordance with equal opportunity directives. See, for example, SECNAVINST 5350.6 (series) and SECNAVINST 5350.10 (series).

i. Reporting suspected violations. Naval personnel who have information which causes them to believe that other DoD personnel have violated a statute or standard of conduct imposed by this instruction should

bring the matter to the attention of the appropriate command authority. The matter thereafter should be brought to the attention of the person concerned, for possible resolution without further command action, unless the command determines that such communication is not likely to remedy the problem or will adversely affect a proper investigation of the matter.

j. Resolving violations. The resolution of standards of conduct violations shall be accomplished promptly by one or more measures, such as divestiture of conflicting interests, disqualification for particular assignments, changes in assigned duties, termination, or other appropriate action, as provided by statute or administrative procedures. Disciplinary actions shall be in accordance with established personnel procedures. See para. 6a following.

8. Regulations governing the conduct of naval personnel

a. Affiliations and financial interests. Naval personnel shall not engage in any personal, business, or professional activity, or receive or retain any direct or indirect financial interest, which places them in a position of conflict between their private interests and the public interests of the United States related to the duties or responsibilities of their official positions. For the purpose of this prohibition, the private interests of a spouse, minor child, and any household member are treated as private interests of the naval personnel.

(1) Unless otherwise expressly authorized by action taken under 18 U.S.C. § 208(b), all naval personnel who have or acquire an affiliation or a financial interest which creates a conflict or appearance of a conflict with their official duties shall report the possibly disqualifying interest to the appropriate supervisor, who shall resolve the matter in accordance with this instruction. If it is determined that the individual should be disqualified from participation in any official activities that are related to the conflicting interest, a formal disqualification notice must be sent to the concerned individual's appropriate supervisor and immediate subordinates. If the individual cannot adequately perform his official duties after such disqualification, he must divest himself of such involvement or be removed from that position.

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(2) Naval personnel need not disqualify themselves under this section, however, for holding shares of a widely held, diversified mutual fund or regulated investment company. Such holdings are exempted as being too remote or inconsequential to affect the integrity of the services of Government personnel.

b. **Using inside information.** Naval personnel shall not use, directly or indirectly, inside information to further a private gain for themselves or others if that information is not generally available to the public and was obtained by reason of their DoD positions.

c. **Using naval position.** Naval personnel are prohibited from using their official positions to induce, coerce, or in any manner unlawfully influence any person, including subordinates, to provide any benefit, financial or otherwise, to themselves or others.

d. **Dealing with present and former military and civilian personnel.** Naval personnel shall not knowingly deal on behalf of the Government with present or former Government personnel, military or civilian, whose participation in the transaction would be in violation of a statute, regulation, or policy set forth in this instruction. While all applicable prohibitions are within the prohibition established by this subparagraph, attention is directed to the prohibition on retired Regular officers selling to the Government through the department in which they hold a retired status, 18 U.S.C. §281; the prohibition on former personnel acting as an agent or attorney for anyone other than the United States in connection with "claims" against the Government, 18 U.S.C. §207; and the prohibition on paying appropriated funds to retired Regular officers who are "selling" to certain Government agencies, 37 U.S.C. §801(c).

e. **Commercial soliciting by naval personnel.** To eliminate the appearance of coercion, intimidation, or pressure from rank, grade, or position, full-time naval personnel, except special Government employees and Reserve enlisted personnel on active duty for training, are prohibited from making personal commercial solicitations or sales to DoD personnel who are junior in rank or grade, at any time, on or off duty.

(1) This limitation includes, but is not limited to, the solicitation and sale of insurance, stocks,

mutual funds, real estate, and any other commodities, goods, or services.

(2) This prohibition is not applicable to the one-time sale by an individual of his own personal property or privately owned dwelling, or to the off-duty employment of naval personnel as employees in retail stores or other situations not including solicited sales.

(3) With regard to solicitation by and of civilian personnel, the limitation applies only to solicitation of personnel under the supervision, at any level, of the solicitor.

f. **Assignment of Reserve personnel for training.** Naval personnel who are responsible for assigning Reserves for training shall not assign them to duties in which they will obtain information that could be used by them or their private sector employers to gain unfair advantage over civilian competitors.

g. **Gratuities**

(1) Except as provided in subparagraph (g)(2) below, naval personnel and their spouses, minor children, and members of their households shall not solicit, accept, or agree to accept any gratuity for themselves, members of their families, or others, either directly or indirectly from, or on behalf of, a defense contractor. A defense contractor is a person or other entity which:

(a) is engaged in or seeks business or financial relations of any sort with any DoD component,

(b) conducts operations or activities that are either regulated by a DoD component or significantly affected by DoD decisions, or

(c) has interests that may be substantially affected by the performance or nonperformance of the official duties of DoD personnel.

(2) This general prohibition does not apply to the following:

(a) the continued participation in employee welfare or benefit plans of a former employer

when permitted by law and approved by the appropriate Standards of Conduct Counsellor;

(b) the acceptance of unsolicited advertising or promotional items that are less than \$5 in retail value;

(c) trophies, entertainment, prizes, or awards for public service or achievement or given in games or contests which are clearly open to the public or which are officially approved for naval personnel participation;

(d) things available to the public (such as university scholarships covered by DoD Directive 1322.6 and free exhibitions by Defense contractors at public trade fairs);

(e) discounts or concessions extended Navy- and Marine Corps-wide and realistically available to all naval personnel;

(f) participation by naval personnel in civic and community activities when the involvement of Defense contractors is remote from the business purposes of any contractor who is sponsoring, supporting, or participating in the activity (for example, participation in a little league or Combined Federal Campaign luncheon which is subsidized by a Defense contractor);

(g) social activities engaged in by officers in command and other naval officials, or their representatives, with local civil leaders as part of community relations programs of the Department of the Navy in accordance with SECNAVINST 5720.44 (series);

(h) the participation of naval personnel in widely attended gatherings of mutual interest to Government and industry, sponsored or hosted by industrial, technical, and professional associations (not by individual contractors), provided that they have been approved in accordance with DoD Instruction 5410.20;

(i) situations in which participation by naval personnel at public ceremonial activities of mutual interest to industry or local communities and the Department of the Navy serves the interests of the Government and acceptance of the invitation is approved by the commanding officer or other head of the activity to which the invitee is attached,

(j) contractor-provided transportation, meals, or overnight accommodations in connection with official business when arrangements for Government or commercial transportation, meals, or accommodations are clearly impracticable and the individual reports the circumstances in writing to his appropriate supervisor as soon as possible;

(k) attendance at promotional vendor training sessions when the vendor's products or systems are provided under contract to DoD and the training is to facilitate the utilization of those products or systems by naval personnel;

(l) attendance or participation of naval personnel in gatherings, including social events such as receptions, which are hosted by foreign governments or international organizations, provided that the acceptance of the invitation is approved by the commanding officer or other head of the activity to which the invitee is attached or, when there is doubt as to the propriety of acceptance, by higher authority [see SECNAVINST 1650.1 (series) for further information pertaining to gifts from foreign governments];

(m) customary exchanges of gratuities between naval personnel and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where the circumstances make it clear that it is that relationship rather than the business of the persons concerned which is the motivating factor for the gratuity and where it is clear that the gratuity is not paid for by any entity described in subparagraph 6g(1) above; and

(n) situations in which, in the sound judgment of the individual concerned or his superior, the Government's interest will be served by naval personnel participating in activities otherwise prohibited. In any such case, a written report of the circumstances shall be made by the individual or his appropriate superior in advance of acceptance, or, when an advance report is not possible, within 48 hours after acceptance, to the appropriate supervisor, if he is not otherwise aware of the acceptance, and to the appropriate Standards of Conduct Counsellor or Deputy Counsellor.

(3) Naval personnel who receive gratuities, or have gratuities received for them, in circumstances not in conformance with the standards of this section,

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shall promptly report the circumstances to the appropriate supervisor for a determination as to the proper disposition. The appropriate supervisor shall consult with the Standards of Conduct Counsellor or Deputy Counsellor.

(4) Procedures with respect to ROTC staff members are set forth in DoD Directive 1215.8.

h. Receipts in connection with official travel

(1) The acceptance of accommodations, subsistence, or services, furnished in kind, in connection with official travel from sources other than those indicated in subparagraph 6g(1), is authorized only when the individual is to be a speaker, panelist, project officer, or other bona fide participant in the activity attended and when such attendance and acceptance is authorized by the order-issuing authority as being in the overall Government interest.

(2) Except as indicated in subparagraph 6h(1), naval personnel may not accept personal reimbursement from any source for expenses incident to official travel, unless authorized by their commanding officer or the head of their activity, consistent with guidance provided by the appropriate Standards of Conduct Counsellor (pursuant to 5 U.S.C. §4111 or other authority). Rather, reimbursement must be made to the Government by check payable to the Treasurer of the United States. Personnel will be reimbursed by the Government in accordance with regulations relating to reimbursement.

(3) In no case shall naval personnel accept reimbursement, either in kind or in cash, which is extravagant or excessive in nature.

(4) When accommodations, subsistence, or services in kind are furnished to naval personnel by non-Government sources, consistent with this subsection, appropriate deductions shall be reported and made in the travel, per diem, or other allowances payable.

i. Speaking, lecturing, writing, and appearance as expert witness

(1) Except as provided in paragraph 6i (and further qualified in paragraph 6m), naval personnel are prohibited from accepting fees, reimbursements,

or honoraria for speaking, lecturing, or writing, or for appearing as expert witnesses before State agencies, except in instances where all the following conditions exist:

(a) acceptance of the payment from the person or entity tendering or funding it would not be prohibited under paragraph 6g;

(b) the individual presents himself as a private citizen and not in an official capacity;

(c) such private activities do not interfere with the individual's official duties; and

(d) the individual's appearance or writing is not part of his official duties, does not involve materials which his official duties require him to prepare or provide, and does not depend on information obtained as a result of Government employment, except when that information has been published or is generally available to the public upon request, or it will be made generally available to the public and the official authorized to release such information to the public gives written authorization for the use of non-public information on the basis that the use is in the public interest.

(2) Unless there is a definite Executive Branch, Department of Defense, or Department of the Navy position on a matter addressed in the appearance or writing and the individual has been authorized by appropriate superior authorities to present that position officially, he shall expressly present his views on that matter as his own and not as those of the Department of the Navy or Department of Defense.

j. Prohibition of contributions or presents to superiors. Naval personnel shall not solicit a contribution from other DoD personnel for a gift to an official superior, make a donation or a gift to an official superior, or accept a gift from other DoD personnel subordinate to themselves. This section, however, does not prohibit voluntary gifts or contributions of nominal value on special occasions such as marriage, illness, transfer, or retirement, provided any gifts acquired with such contributions shall not exceed a reasonable value.

k. **Use of Government facilities, property, and manpower.** Naval personnel shall not directly or indirectly use, take, dispose, or allow the use, taking, or disposing of, Government property or facilities of any kind, including property leased to the Government, for other than officially approved purposes. Government facilities, property, and manpower (such as stationery, stenographic and typing assistance, mimeograph and chauffeur services) shall be used only for official Government business. Naval personnel have a positive duty to protect and conserve Government property. These provisions do not preclude the use of Government facilities for approved activities in furtherance of naval community relations, provided they do not interfere with military missions or Government business. See SLCNAVINST 5720.44 (series) for community relations guidance.

l. **Use of civilian and military titles or positions in connection with commercial enterprises**

(1) All naval personnel, except special Government employees, are prohibited from using their grade, rank, title, or position in connection with any commercial enterprise or in endorsing any commercial product. This does not preclude author identification for materials published in accordance with DoD procedures. A commercial enterprise is any entity which engages in activities which produce income as defined in Int. Rev. Code of 1954, §61, and which has not been exempted from paying income taxes pursuant to Int. Rev. Code of 1954, §501(a).

(2) All retired military personnel and all members of Reserve components, not on active duty, are permitted to use their military titles in connection with commercial enterprises, provided that they indicate their inactive Reserve or retired status. If, however, such use of military titles in any way casts discredit on the Department of the Navy or the Department of Defense or gives the appearance of sponsorship, sanction, endorsement, or approval by the Department of the Navy or the Department of Defense, it is prohibited. In addition, commanders of overseas installations may further restrict the use of titles including use by retired military personnel and members of Reserve components, not on active duty, in overseas areas.

m. **Outside employment of DoD personnel**

(1) Naval personnel shall not engage in outside employment or other outside activity, with or without compensation, that:

(a) interferes with, or is not compatible with, the performance of their Government duties;

(b) may reasonably be expected to bring discredit on the Government or the Department of the Navy, or

(c) is otherwise inconsistent with the requirements of this instruction, including the requirements to avoid actions and situations which reasonably can be expected to create the appearance of conflicts of interests.

(2) Enlisted naval personnel on active duty may not be ordered or authorized to leave their post to engage in a civilian pursuit, business, or professional activity if it interferes with the customary or regular employment of local civilians in their art, trade, or profession.

(3) Active duty Regular officers of the Navy and Marine Corps may not be employed by any person furnishing naval supplies or war materials to the United States. If such an officer is so employed, his entitlement to pay ceases for so long as he is so employed.

(4) Off-duty employment of military personnel by an entity involved in a strike is permissible if the person was on the payroll of the entity prior to the commencement of the strike and if the employment is otherwise in conformance with the provisions of this instruction. After a strike begins and while it continues, no military personnel may accept employment by that involved entity at the strike location.

(5) Naval personnel are encouraged to engage in teaching, lecturing and writing. Naval personnel, however, shall not, either for or without compensation, engage in activities that are dependent on information obtained as a result of their Government employment, except when the information has been

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published or is generally available to the public, or it will be made generally available to the public and the official authorized to release such information to the public gives written authorization for the use of non-public information on the basis that the use is in the public interest.

(6) Civilian Presidential appointees in the Department of the Navy shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to naval responsibilities, programs, or operations or which draws substantially from official material which has not become part of the body of public information.

n. **Gambling, betting, and lotteries.** While on Government owned, leased, or controlled property, or otherwise while on duty for the Government, naval personnel shall not participate in any gambling activity, including a lottery or pool, a game for money or property, or the sale or purchase of a number slip or ticket. The only exceptions are for activities which have been specifically approved by the Secretary of the Navy.

o. **Indebtedness.** Naval personnel shall pay their just financial obligations in a timely manner, particularly those imposed by law (such as federal, State, and local taxes), so that their indebtedness does not adversely affect the Government as their employer. The Department of the Navy is not required to determine the validity or amount of disputed debts.

7. **Related statutes and directives.** Attention is directed to the following related matters governed by other directives:

a. **Reports of defense related employment.** Certain categories of present naval personnel formerly employed by defense contractors, and of former or retired naval personnel presently employed by defense contractors, are required by statute to report their employment -- governmental or private. SECNAVINST 5314.5 (series) implements the statutory requirements, provides a form for making the required report (DD Form 1787), and assigns responsibility for ensuring compliance with the filing requirement with commanding officers and other heads of activities. The reports prescribed in SECNAVINST 5314.5 (series) are distinct from the

reports or statements prescribed in this instruction, and failure to file them when required may subject individuals to criminal penalties.

b. **Political activities.** Chapter 733 of the Federal Personnel Manual, article 6210240 of the Bureau of Naval Personnel Manual, and paragraph 1742.3 of the Marine Corps Manual discuss restrictions on political activities of naval personnel. Related statutes are discussed in enclosure (1).

c. **General responsibilities of naval personnel.** Chapter 11 of Navy Regulations, 1973, prescribes general regulations governing the rights and responsibilities of naval personnel. If any provision of this instruction is found to conflict with a provision of Navy Regulations, the latter shall be controlling.

8. **Responsibilities for action**

a. **Under Secretary of the Navy.** The Under Secretary of the Navy is assigned overall responsibility for action relating to standards of conduct of naval personnel. Unless a function is specifically reserved herein to the Secretary, the Under Secretary shall act as the designee of the Secretary, with power to redelegate. Specific matters for action by the Under Secretary or his designee include: (1) resolution of conflicts or apparent conflicts found in statements of employment and financial affiliations not resolved at lower echelons; (2) extensions of time in excess of 30 days for the submission of such statements; (3) exclusion of positions from the requirement to file DD Form 1555, except as delegated to commanding officers and other activity heads in paragraph 9k; and (4) the notification to the Department of Defense required by subparagraph 9b(2) [RCS DD-SECNAV 5370-1].

b. **Navy Department officials.** The Chief of Naval Operations, the Commandant of the Marine Corps, and the heads of Navy Department offices not under the control of Chief of Naval Operations or Commandant of the Marine Corps shall provide the Under Secretary of the Navy by 15 December of each year with the information regarding naval personnel within their chain of command required to be included in the report by the Under Secretary pursuant to subparagraph 9b(2). [RCS DD-SECNAV 5370-1]

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c. Commanding officers and heads of activities.

The basic responsibility for complying with the requirements of this instruction rests with individual personnel concerned, but the primary responsibility for ensuring such compliance must rest with officers exercising command or similar authority over personnel. Each commanding officer or head of a command, bureau, office, or activity is specifically responsible for the following:

(1) The continuing dissemination of the applicable information in this instruction to all naval personnel within his organization at least semiannually, in a manner which will ensure familiarity and compliance with the pertinent provisions of this instruction by all personnel (this is a continuing requirement and is in addition to the initial briefing required by paragraph 10);

(2) The establishment and continuing execution of the procedures and controls prescribed in paragraph 9, below, to ensure that each position is reviewed as required by paragraph 9j, that all naval personnel within his organization who are required to file confidential statements of affiliations and financial interests (DD Form 1555) do file them in a timely manner, and that such statements are promptly and carefully reviewed;

(3) Making determinations pursuant to this instruction and 18 U.S.C. §208(b) with respect to disqualification of personnel within his organization from performing duties in which they have conflicts or apparent conflicts of interests;

(4) Ensuring that Reservists detailed to perform active duty for training at his organization are assigned duties which will minimize the possibility that they may obtain information that could be used by them or their employers to gain an unfair advantage over civilian competitors; and

(5) Receiving and taking prompt and appropriate action on reports concerning acceptance of gratuities or other violations of this instruction, including enclosure (1) or related statutes, by personnel within his organization.

d. Inspectors General. The Naval Inspector General and the Inspector General of the Marine Corps shall

ensure that periodic administrative inspections of organizations under their cognizance routinely include inquiry into the effectiveness of the organization's compliance with the provisions of this instruction.

e. Auditor General. The Auditor General of the Navy shall ensure that the Naval Audit Service audit program routinely includes inquiry into the effectiveness of the organization's compliance with the provisions of this instruction.

f. Judge Advocate General and General Counsel. The Judge Advocate General and the General Counsel of the Navy are designated as the Standards of Conduct Counsellors for the Department of the Navy. They shall be responsible for advice and proper review of all standards of conduct problems within their respective areas of jurisdiction. The General Counsel shall be consulted concerning problems pertaining to:

(1) Contracting, procurement, or auditing;

(2) Acquisition, management, or disposition of real or personal property;

(3) Procurement matters in the field of patents, inventions, trademarks, or copyrights;

(4) Military Sealift Command matters; or

(5) Office of the Comptroller of the Navy matters.

In addition, the General Counsel shall perform all standards of conduct functions pertaining to the Secretary of the Navy, his Civilian Executive Assistants, and members of their respective staffs. The Judge Advocate General shall be consulted with regard to all other problems.

g. Deputy Standards of Conduct Counsellors. The following are designated as Deputy Standards of Conduct Counsellors and shall be responsible for providing advice and assistance on matters relating to conduct and conflicts of interests, and for providing legal review

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of statements of affiliations and financial interests which are referred to them:

(1) Within the cognizance of the General Counsel, and in their respective commands or organizations

Deputy General Counsels;

Assistant to the General Counsel (Litigation);

Counsel for the Commandant of the Marine Corps;

Counsel for the Systems and Facilities Engineering Commands;

Counsel for the Comptroller of the Navy;

Counsel for the Military Sealift Command;

Counsel for the Office of Naval Research; and

Counsel in charge of OGC field and branch offices; and

(2) Within the cognizance of the Judge Advocate General, and in their respective commands or organizations:

Deputy and Assistant Judge Advocates General;

Director, Judge Advocate Division, Headquarters, U.S. Marine Corps;

Officer and civilian attorneys under the supervision of the Judge Advocate General; and assigned to the commands, bureaus, and offices of the Navy Department, as defined in article 0104.3, U.S. Navy Regulations, 1973, other than the Office of the Judge Advocate General;

District judge advocates;

Staff or force judge advocates on the staffs of all other commands having general court-martial convening authority; and

Officers in charge of Naval Legal Service Offices.

Other Deputy Standards of Conduct Counsellors may be designated by the General Counsel or by the Judge Advocate General, as required. Where strict adherence to the division of areas of responsibility under paragraph 8f is impracticable due to such factors as inaccessibility or uncertainty as to jurisdiction, any Deputy Standards of Conduct Counsellor may be consulted. In such a case, the Deputy Standards of Conduct Counsellor will render all possible assistance and then, if appropriate, direct the inquiry into the proper area of responsibility.

h. Director of Civilian Personnel. The Director of Civilian Personnel shall incorporate the provisions of this instruction and enclosure (1) concerning civilian employees in appropriate Civilian Personnel Instructions.

i. Additional duties of senior officials. The Commandant of the Marine Corps and the Chief of Naval Material, as appropriate, are responsible for bringing the contents of this instruction to the attention of the principal officer of each contractor doing significant business with the Department of the Navy. Chiefs and heads of commands, bureaus, and offices, commanding officers, and other senior officials shall periodically utilize the opportunity afforded by conferences with representatives of industry to direct attention to the regulations and policies set forth in this instruction.

9. Statements of affiliations and financial interests (DD Form 1555)

a. Personnel required to file. The following naval personnel are required to submit initial and annual statements of affiliations and financial interests, DD Form 1555 [enclosure (2)], in accordance with this instruction unless they are expressly exempted.

(1) All civilian naval personnel paid at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade GS-16, including the Executive Schedule.

(2) Officers of flag or general grade.

(3) Commanding officers or heads, and executive officers or deputy heads, of:

(a) Navy shore installations with 500 or more military and civilian personnel (including foreign national and indirect-hire personnel) regularly attached but excluding personnel attached for duty under instruction, and

(b) all Marine Corps bases and air stations.

(4) Naval personnel classified at GS-13 or above, or at a comparable pay rate under other authority, and members of the military in the grade of lieutenant colonel, commander, or above, when the responsibilities of such personnel require the exercise of judgment in making a Government decision or in taking Government action in regard to activities in which the final decision or action may have a significant economic impact on the interests of any non-federal entity. Included herein, among others, are persons who, as part of their basic duties, sign, negotiate, recommend, or approve contracts or other procurement actions and those who, as part of their basic duties, are engaged in auditing activities, including supervising others who are engaged in auditing activities or participating in the development of policies and procedures for performing audits.

(5) Special Government employees other than those in the following categories (who may, in any case, be required to file when specifically requested to do so by their appropriate supervisor):

(a) a special Government employee who is not a "consultant" or "expert" as those terms are defined in Chapter 304 of the Federal Personnel Manual.

(b) physicians, dentists, and allied medical specialists engaged only in providing service to patients.

(c) veterinarians providing only veterinary services.

(d) lecturers participating only in educational activities.

(e) chaplains performing only religious services.

(f) individuals in the motion picture and television fields who are utilized only as narrators or actors in DoD productions.

(g) members of selection panels for NROTC candidates.

(8) Other naval personnel who are required, with Civil Service Commission approval, to file such statements.

b. Time of filing

(1) Initial filing. The initial filing must be made sufficiently in advance of appointment (in the case of special Government employees), nomination (in the case of designees to positions requiring the approval of the Secretary of the Navy), or the commencement of service or the assumption of duties (in all other cases), so that review and approval of the filing may be completed in advance of appointment, nomination, or commencement of service or assumption of duties. Each officer or employee required to file a statement shall submit it in the prescribed form directly to his appropriate supervisor. In the case that the appropriate supervisor is not the commanding officer or the head of the activity concerned, the appropriate supervisor will ensure that the commanding officer or other head is made aware of any conflict of interest or other matter of which he must be aware of fulfill his responsibilities under paragraph 8c above. Upon transfer or reassignment from one billet or position to another for which the filing of a statement is required, an officer or employee shall file a current statement promptly with the appropriate supervisor of his new billet or position.

(2) Annual statements. DD Form 1555 statements shall be filed by 31 October of each year with information current as of 30 September of that year. Even though no changes have occurred since the last filing, a complete statement is required. The Under Secretary of the Navy shall notify the Office of the Secretary of Defense Standards of Conduct Council not no later than 31 December of each year that all required statements have been filed and reviewed, with all problems appropriately resolved, or he shall explain the details of the outstanding cases. (RCS DD-SECNAV 5370.1.)

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(3) Extension of filing deadline. When required by reason of duty assignment, infirmity, or other good cause, a superior, with the concurrence of the Standards of Conduct Counsellor or Deputy Counsellor, may grant an extension of the filing deadline, not to exceed 30 days. A superior, with the concurrence of the Standards of Conduct Counsellor or Deputy Counsellor and the Under Secretary of the Navy, may grant an extension of the filing deadline in excess of 30 days. Any annual statement filed after 31 October shall include an appropriate notation as to whether any extension of the filing deadline has been granted hereunder.

(4) Omission by a commanding officer or head of an activity to furnish a written reminder, as prescribed in paragraph 9j, below, shall not relieve an officer or employee from an applicable filing requirement.

c. Place of Submission

(1) All Department of the Navy civilian Presidential appointees shall submit their statements to the DoD General Counsel.

(2) Commanders of unified commands shall submit their statements directly to the OSD Standards of Conduct Counsellor. Other personnel of the unified commands shall submit their statements through their appropriate supervisor to the Deputy Standards of Conduct Counsellor of the unified command.

(3) Commanders who have a dual responsibility as commanders of both joint and naval commands shall submit their statements through naval channels.

(4) Personnel not serving in a DoD component shall submit their statements to the Under Secretary of the Navy.

(5) Other naval personnel shall submit their statements to their appropriate supervisor for review and forwarding in accordance with paragraph 9f.

(6) Naval personnel who report to more than one reporting senior shall meet the filing requirements of each position independent of the other.

d. Content

(1) All information reported shall be current as of 30 September of the filing year.

(2) Interests of others. The interest of a spouse, minor child, or any member of one's household is to be reported in the same manner as the interest of the individual.

(3) Information not known by naval personnel. Naval personnel shall request submission on their behalf of required information known only to other persons. A request that the information submitted be kept confidential will be honored even if it includes not disclosing the information to the person who requests the submission.

(4) Information not required to be submitted. Naval personnel are not required to submit any information relating to their connection with or interest in a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business for profit. For the purpose of this instruction, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are to be included in a person's statement. Additionally, naval personnel are not required to report ownership of personal savings or checking accounts in financial institutions, or life or property insurance policies, even though they provide for dividends or cash value.

e. Confidentiality of statements of DoD personnel. Naval authorities shall hold each statement in confidence. Information from a statement may be disclosed, as a routine use, to federal officials who, as part of their official duties, require access to the information and who are listed in the applicable system of records notice required under the Privacy Act, 5 U.S.C. § 552a, and to such other persons to whom disclosure is required under the Privacy Act, the Freedom of Information Act, 5 U.S.C. § 552, or other provision of law. Persons designated to review the statements are responsible for maintaining the statements in confidence.

f. Review and disposition

(1) Initial filing. All initial statements shall be reviewed for apparent conflicts of interests by the appropriate Deputy Standards of Conduct Counsellor and the appropriate supervisor prior to appointment (in the case of special Government employees), nomination (in the case of designees to positions requiring the approval of the Secretary of the Navy), or the commencement of service or the assumption of duties (in all other cases).

(2) Annual filing. Upon receipt of annual statements, the appropriate supervisor shall evaluate the statement, in accordance with the standards provided in this instruction, to determine whether a conflict or apparent conflict of interests is disclosed. The appropriate supervisor shall note the results of that evaluation on the statement, and shall forward the statement to the cognizant Deputy Standards of Conduct Counsellor under paragraph 8f for legal review.

(3) Disposition

(a) If the appropriate supervisor and the Deputy Standards of Conduct Counsellor agree that the statement discloses no conflict of interests or apparent conflict of interests, both shall record their determination on the statement, and the statement shall be filed in the office of the appropriate supervisor. In the case of a flag or general officer, however, the appropriate supervisor shall, before filing the statement, forward a copy to the Chief of Naval Personnel (Pers-OF) or the Commandant of the Marine Corps (CS), as appropriate, to be retained for use in connection with a possible nomination for appointment or reassignment to a 3- or 4-star billet.

(b) When either the appropriate supervisor or the Deputy Standards of Conduct Counsellor believes that a statement discloses a conflict or apparent conflict of interests, the officer or employee concerned shall be afforded an opportunity to terminate the conflict or to explain the conflict or apparent conflict in writing. If, after review of the written explanation, both the appropriate supervisor and the Deputy Standards of Conduct Counsellor are satisfied that there is no conflict or apparent conflict, they shall record their determination on the statement and explanation, and

the record shall be filed as provided above. Otherwise, the appropriate supervisor and Deputy Standards of Conduct Counsellor shall append their views on the record and, retaining a copy in the office of the appropriate supervisor, forward the original record to the commanding officer or head of the activity for resolution. If the commanding officer or activity head is unable to resolve the controversy, he shall append his comments and recommendations to the record and forward it to:

(i) The Chief of Naval Personnel, in the case of a Navy officer;

(ii) The Commandant of the Marine Corps, in the case of a Marine Corps officer; or

(iii) The Director of Civilian Personnel, in the case of a civilian employee.

The departmental official thus receiving the record shall refer it to a cognizant Deputy Standards of Conduct Counsellor for legal review and advice. Cases which cannot be resolved by the Chief of Naval Personnel, the Commandant of the Marine Corps, or the Director of Civilian Personnel, as appropriate, shall be forwarded to the Under Secretary of the Navy, via the cognizant department Standards of Conduct Counsellor, for final resolution. Cases referred to the Commandant of the Marine Corps, Chief of Naval Personnel, or Director of Civilian Personnel for review shall, when finally resolved, be filed in the Bureau of Naval Personnel, Marine Corps Headquarters, or the Office of Civilian Personnel, as appropriate, with information to the originating activity concerning the ultimate disposition of the case.

(c) Initial review and local efforts to resolve conflicts or apparent conflicts disclosed in annual statements shall be accomplished by 30 November, if possible, and by 31 December in any event unless the Under Secretary of the Navy has granted an extension under subparagraph 9b(3) above. Review and resolution of initial statements submitted prior to appointment or nomination should be accomplished immediately. Initial review and local resolution efforts concerning other initial statements should be accomplished within 30 days after filing.

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g. Special requirements concerning executive-level and 3- and 4-star flag and general nominees

(1) As part of the Secretarial approval process for a nominee to any of the positions described in subparagraph 9a(1), above, the documents submitting the nominee for approval must contain the following certification by the selecting official, on Civil Service Commission Form 917, executive selection form, in item 30:

I certify that (nominee's name), whom I am nominating for the executive level position of (title, grade or PL designation, and organizational location of position) has executed a confidential statement of affiliations and financial interests, DD Form 1555, that I have evaluated it and had it reviewed by a Deputy Standards of Conduct Counsellor, and that I have found the requirements of DoD Directive 5500.7 of 15 January 1977 and SECNAV Instruction 5370.2G to be satisfied.

(2) As part of the process for approving nominees for appointment to 3- and 4-star flag or general officer positions, the Secretary of the Navy must ensure that the nominee has a current DD Form 1555 on file and that the form has been reviewed in relation to the position for which he is being considered. Further, the Secretary of the Navy is required to cause a review of all relevant systems of records maintained by the Department of the Navy, including investigative files, to determine if there is any evidence of the nominee having violated the standards of conduct. Each nomination forwarded to the Secretary of Defense must be accompanied by a certification of the Secretary of the Navy that the required review has been conducted and that the review has or has not disclosed a violation of the standards of conduct.

h. Personnel detailed to other DoD components and Government agencies. Agreements with other DoD components and Government agencies involving detailing of naval personnel shall contain a requirement that the other DoD component or Government agency shall, within 60 days of the filing time specified in subparagraphs 9b(1), (2), and (3) above, forward to the appropriate Navy Standards of Conduct Counsellor a copy of the detailed individual's statement, if re-

quired, and notice concerning the disposition of any conflict or apparent conflict of interests indicated.

i. Effect of statements on other requirements. The statements required of naval personnel are in addition to, and not in substitution for, any similar requirement imposed by law, order, or regulations. Submission of statements does not permit naval personnel to participate in matters in which their participation is prohibited by law, order, or regulation.

j. Review of positions. Each commanding officer or other head of an activity shall include in the description of each position indicated in paragraph 9a of this instruction a statement that the incumbent of the position must file a statement of affiliations and financial interests, as required by this instruction. All positions shall be reviewed at least annually, prior to 30 September, to determine those which require statements. Any individual may request a review of the decision requiring him to file a statement through the established complaint procedures of the Department of the Navy. Additionally, each incumbent in such a billet or position shall be reminded in writing, by 30 September, of the requirement to file a statement, and shall be furnished a copy of the required form. Check-off lists shall be utilized to ensure that all statements have been returned by 31 October, or by later specified dates where extensions of time have been granted.

k. Exclusion of positions. A commanding officer or other head of an activity may determine that the submission of statements is not necessary for certain positions described in subparagraph 9a(4) because of the remoteness of any impairment of the integrity of the Government and the degree of supervision and review of the incumbents' work. The Under Secretary of the Navy shall make this determination as to any personnel described in subparagraphs 9a(1), (2), (3), and (5).

10. Information to personnel. The Chief of Naval Operations and the Commandant of the Marine Corps shall ensure that all military personnel - regardless of the program in which they are participating or their duty status - receive, as part of their initial or accession training or upon the assumption of duties

following initial appointment or enlistment, an oral briefing regarding the provisions of this instruction. The Chief of Naval Operations and the Commandant of the Marine Corps shall also ensure that all military personnel, except enlisted personnel not required to file statements of affiliations and financial interests (DD Form 1555), receive a copy of this instruction as part of the oral briefing on this instruction. The Director of Civilian Personnel shall ensure that all civilian personnel receive a copy of and an oral briefing regarding the provisions of this instruction preceding employment or upon assumption of duties. All personnel shall attest in writing to their attendance at the required briefing, that they have read this instruction, and that they understand the requirements imposed hereby.

11. Privacy Act consideration

a. Confidential statements of affiliations and financial interests (DD Form 1555) and statements of employment (DD Form 1357) contain sensitive personal information and care shall be exercised to ensure that they are seen only by personnel on a need-to-know basis in connection with their official duties. In this regard, see paragraph 9c above. Adequate safeguards shall be utilized to prevent inadvertent or unauthorized disclosures of the statements during review, transmittal, and storage. In addition, SECNAVINST 5211.5 (series) prescribes other general restrictions and requirements applicable to the collection, use, and dissemination of these records, and contains Rules of Conduct Under the Privacy Act which are applicable to all naval personnel.

12. Reporting of post-retirement employment

a. Each retired Regular officer of the Navy and Marine Corps shall keep the Department of the Navy advised of his post-retirement employment activities. All retired Regular officers whose names have been on the retired list for three years or less shall file a statement of employment (DD Form 1357; see enclosure 3). All retired Regular officers whose names have been on the retired list for over three years are encouraged to use DD Form 1357 to report their post-retirement employment activities. In any event, officers whose names have been on the retired list for more than three years shall, at a minimum, keep the Department of

the Navy advised as to whether they are employed by any agency, instrumentality, or department of the United States and, if so, the position title and employing agency. In the event that reporting the information required would tend to show that the officer concerned was violating or had violated 18 U.S.C. § 2381 or any other criminal provision, the filing requirement will be satisfied by a written refusal, signed by the officer concerned, to provide the required information on the basis that the information may tend to incriminate the officer. Each Regular officer retiring hereafter shall file this statement within 30 days after retirement. Whenever the information reported changes, each such officer shall make an appropriate report within 30 days of that change. The Comptroller of the Navy (for Regular Navy officers) and the Commandant of the Marine Corps (for Regular Marine Corps officers) shall advise each officer required to file of the continuing need to report their post-retirement employment activities as set forth above.

b. Reports of post-retirement employment shall be submitted -

(1) in the case of a retired Regular Navy officer - to the Commanding Officer, Navy Finance Center (Retired Pay Division), Cleveland, OH 44199; or

(2) in the case of a retired Regular Marine Corps officer - to the Commanding Officer, Marine Corps Finance Center, Kansas City, MO 64197.

c. The Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, shall provide each Regular officer retiring hereafter, as part of the retirement check-out procedures, with clear instructions concerning the requirement under this instruction to report post-retirement employment. These instructions should be combined, where applicable, with the instructions prescribed in SECNAVINST 5314.5 (series) concerning the possible additional requirement to file reports of DoD and defense related employment (DD Form 1787).

d. The Comptroller of the Navy or the Commandant of the Marine Corps, as appropriate, is responsible for the review of all reports of post-retirement employment filed by retired Regular Navy and

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Marine Corps officers, to ensure compliance with applicable laws and regulations.

e. If an apparent violation of law or regulation is noted upon review of a report of post-retirement employment, a copy of the report shall be transmitted to the Commander, Navy Accounting and Finance Center, or Commandant of the Marine Corps, as appropriate. If that official determines that a violation may have been committed, a copy of the statement shall be forwarded to the Judge Advocate General (Code 13) for such additional review, inquiry, advice, or further action as may be warranted.

f. The legal limitations on sales by retired Regular officers are discussed in enclosure (1).

13. **Action.** The provisions of this instruction shall be disseminated to all naval personnel upon receipt, for their compliance. All addressees shall take the action required by paragraphs 8 and 10 of this instruction.

14. **Effective Date.** This instruction shall be effective upon publication in the Federal Register.

15. **Availability of forms.** Supplies of DD Form 1355 will be available in the Forms and Publications Segment of the Navy Supply System beginning in September 1977 under stock number 0102-LF-001-5550. Supplies of Civil Service Form 917 are available in the Forms and Publications Segment of the Navy Supply System under stock number 0101-LF-417-0002. Supplies of DD Form 1357 are available from the Commanding Officer, Navy Finance Center, Cleveland, Ohio, and are not stocked in the Navy Supply System.

16. **Report.** Symbol DD-SECNAV 5370-1 has been assigned to the reporting requirement contained in paragraphs 8a and b and 9b(2).

W. GRAHAM CLAYTOR, Jr.

Approved: 16 August 1977

/s/ L. NIEDERLEINER

for DEANNE C. SIEMER
General Counsel
Department of Defense

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DIGEST OF LAWSConflict of Interest LawsI. 18 U.S.C. 203

Subsection (a) prohibitions are encompassed by prohibitions in 18 U.S.C. 205 below. Subsection (b) makes it unlawful to offer or pay compensation, the solicitation or receipt of which is barred by subsection (a).

II. 18 U.S.C. 205

A. This section prohibits Government personnel from acting as agent or attorney for anyone else before a department, agency, or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

B. The following exemptions are allowed:

1. Section 205 does not prevent Government personnel from giving testimony under oath or making statements required to be made under penalty of perjury or contempt or from representing another person, without compensation, in a disciplinary, loyalty, or other personnel matter.
2. Section 205 also authorizes a limited waiver of its restrictions and those of section 203 for the benefit of an officer or employee, including a special Government employee, who represents his own parents, spouse, or child, or a person or estate he serves as a fiduciary. The waiver is available only if approved by the official making appointments to the position. In no event does the waiver extend to his representation of any such person in matters in which he has participated personally and substantially or which, even in the absence of such participation, are the subject of his official responsibility.
3. Finally, section 205 gives the Head of a department or agency the authority to allow a special Government employee to represent his regular employer or other outside organization in the performance of work under a Government grant or contract, if the department or agency head certifies and publishes in the Federal Register, that the national interest requires such representation.

III. 18 U.S.C. 208

- A. Subsection (a) requires executive branch personnel to refrain from participating as Government personnel in any matter in which they, their spouses, minor children, or partners have

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financial interests or in which businesses or nonprofit organizations with which such personnel are connected or are seeking employment have financial interests. A "particular matter" may be less concrete than an actual contract, but is something more specific than rule making or abstract scientific principles. The test is whether the individual might reasonably anticipate that his Government action, or the decision in which he participates or with respect to which he advises, will have a direct and predictable effect upon such financial interests.

- B. Subsection (b) permits agencies to grant an ad hoc exemption from subsection (a) if the outside financial interest is deemed not substantial enough to affect the integrity of Government services. Categories of financial interests may also be made nondisqualifying by a general regulation published in the Federal Register.

IV. 18 U.S.C. 209

Subsection (a) prevents executive branch personnel from receiving, and anyone from paying them, any salary or supplementation of salary from a private source as compensation for their Government service. Subsection (b) permits participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer. Subsection (c) exempts special Government employees and anyone serving the Government without compensation. Subsection (d) exempts contributions, awards, or other expenses under the Government Employees Training Act (5 U.S.C. 2301-2319).

V. 37 U.S.C. 801 (a)

A Regular Navy or Regular Marine Corps officer on Active duty may not be employed by anyone furnishing Naval supplies or war materials to the United States. If such an officer is so employed he is not entitled to any payment from the United States during that employment.

VI. 18 U.S.C. 207, APPLICABLE TO FORMER DOD PERSONNEL

- A. Subsection (a) permanently prohibits former DoD personnel from acting as agent or attorney for anyone other than the United States in connection with matters involving a specific party or parties in which (1) the United States has a direct and substantial interest, and (2) the former personnel participated personally and substantially while holding a Government position.
- B. For 1 year after having had related official responsibilities, former DoD personnel are prohibited from personal appearances before a court, department, or agency of the Government as agent or attorney for anyone other than the United States Government (subsection (b)).

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- C. Past participation in or official responsibility for general rule making, the formulation of general policy or standards, or other similar matters does not disqualify former personnel. Similarly, in the scientific field past participation in discussions of scientific or engineering concepts, the feasibility of scientific or technical accomplishments, or proposed Government programs in the early stages prior to the formulation of a contract or a contract proposal where specific parties became involved in a matter, does not disqualify the former personnel from representation with respect to a contract entered into at a later time even though the same general scientific matters may be involved in such a contract.
- D. Neither subsection precludes postemployment activities which are no more than aiding or assisting another. A person who leaves the department to accept private employment may, for example, immediately perform technical work on a contract for which he had official responsibility. On the other hand, he is forbidden for a year to appear personally before the department as the agent or attorney of his company in connection with a dispute over the terms of the contract. He may at no time appear personally before the department or otherwise act as agent or attorney for his company in such dispute if he helped negotiate the contract.

VII. SUMMARY OF LAWS PARTICULARLY APPLICABLE TO RETIRED REGULAR OFFICERS

A. Prohibited Activities

1. Claims. A retired Regular officer of the Armed Forces may not, within 2 years of his retirement, act as agent or attorney for prosecuting any claim against the Government, or assist in the prosecution of such a claim, or receive any gratuity or any share of or interest in such a claim in consideration for having assisted in the prosecution of such a claim, if such claim involves the Military Department in whose service he holds a retired status. Nor may a Regular retired officer at any time act as an agent or attorney for prosecuting any claim against the Government or assist in prosecution of such claim, or receive any gratuity or any share of or interest in such claim in consideration for having assisted in the prosecution of such claim, if such claim involves any subject matter with which he was directly connected while on active duty (see 18 U.S.C. 283).
2. Selling
 - a. A retired Regular officer is prohibited, at all times, from representing any person in the sale of anything to the Government through the Military Department in whose service he holds a retired status (see 18 U.S.C. 281).

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b. "Payment may not be made from any appropriation, for a period of three years after his name is placed on that list, to an officer on a retired list of the Regular Army, the Regular Navy, the Regular Air Force, the Regular Marine Corps, the Regular Coast Guard, the Environmental Science Services Administration, or the Public Health Service, who is engaged for himself or others in selling, or contracting or negotiating to sell, supplies or war materials to an agency of the Department of Defense, the Coast Guard, the Environmental Science Services Administration, or the Public Health Service." (Sec. 37 U.S.C. 801(c) as amended October 9, 1962, P.L. 87-77), formerly 5 U.S.C. 59(c)). [Note: The Environmental Science Services Administration was abolished on October 3, 1970, and its functions were transferred to the National Oceanic and Atmospheric Administration.]

c. For the purpose of this statute, "selling" means:

- (1) Signing a bid, proposal, or contract;
- (2) Negotiating a contract;
- (3) Contacting an officer or employee of any of the foregoing departments or agencies for the purpose of:
 - (a) Obtaining or negotiating contracts,
 - (b) Negotiating or discussing changes in specifications, price, cost allowances, or other terms of a contract, or
 - (c) Settling disputes concerning performance of a contract; or
- (4) Any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefor is subsequently negotiated by another person.

3. Neither these statutes nor this Directive preclude a retired Regular officer from accepting employment with private industry solely because his employer is a contractor with the Government.

B. Exemptions From Law Applying to Officers on Active Duty

A retired Regular officer continues to be an "officer" of the United States for purposes of many statutes. However, the laws applying to DoD personnel listed above do not normally apply to retired officers not on active duty who are not otherwise officers or employees of the United States.

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LAWS APPLICABLE TO DOD PERSONNEL

There are legal prohibitions concerning the following activities which may subject present and former DoD personnel to criminal or other penalties:

- A. Aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime under any criminal statute (see 18 U.S.C. 201).
- B. Concealing or failing to report to proper authorities the commission of a felony under any criminal statute if such personnel knew of the actual commission of the crime (see 18 U.S.C. 4).
- C. Conspiring with one or more persons to commit a crime under any criminal statute or to defraud the United States, if any party to the conspiracy does any act to effect the object of the conspiracy (see 18 U.S.C. 371).
- D. Lobbying with appropriated funds (see 18 U.S.C. 1913).
- E. Disloyalty and striking (see 5 U.S.C. 7311, 18 U.S.C. 1918).
- F. Disclosure of classified information (see 18 U.S.C. 798, 50 U.S.C. 783); and disclosure of confidential information (see 18 U.S.C. 1905).
- G. Habitual use of intoxicants to excess (see 5 U.S.C. 7352).
- H. Misuse of a Government vehicle (see 31 U.S.C. 638a(c)(2)).
- I. Misuse of the franking privilege (see 18 U.S.C. 1719).
- J. Deceit in an examination or personnel action in connection with Government employment (see 18 U.S.C. 1917).
- K. Committing fraud or making false statements in a Government matter (see 18 U.S.C. 1001).
- L. Mutilating or destroying a public record (see 18 U.S.C. 2071).
- M. Counterfeiting and forging transportation requests (see 18 U.S.C. 508).
- N. Embezzlement of Government money or property (see 18 U.S.C. 641); failing to account for public money (see 18 U.S.C. 643); and embezzlement of the money or property of another person in the possession of an employee by reason of his Government employment (see 18 U.S.C. 654).
- O. Unauthorized use of documents relating to claims from or by the Government (see 18 U.S.C. 285).

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- P. Certain political activities (see 5 U.S.C. 7321-7327 and 18 U.S.C. 602, 603, 607, and 608). These statutes apply to civilian employees; regulations govern military personnel.
- Q. Any person who is required to register under the Foreign Agents Registration Act of 1938 (see 18 U.S.C. 219) may not serve the Government as an officer or employee. The section does not apply to (1) reserves who are not on active duty or who are on active duty for training, or (2) a special Government employee in any case in which the department head certifies to the Attorney General that his employment by the United States Government is in the national interest.
- R. Soliciting contributions for gifts or giving gifts to superiors, or accepting gifts from subordinates (see 5 U.S.C. 7351).
- S. Acceptance of excessive honorariums (see 2 U.S.C. 441 (1)).
- T. Acceptance, without statutory authority of any office or title, of any kind whatever, from any king, prince, or foreign state by any person holding any office of profit in or trust of the Federal Government, including all retired military personnel.
(U.S. Constitution, Art. I, Sec. 9.)

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<p>7. INTERESTS IN REAL PROPERTY List your interests in real property other than personal residence per agency. Disclose only that relationship, present or prospective, regarding acquisition or present status. If none, state NONE.</p>			
<p>NATURE OF INTEREST Ownership, mortgage, etc. (include address)</p>	<p>TYPE OF PROPERTY Residential, commercial, etc. (include address)</p>	<p>ADDRESS</p>	
<p>8. INFORMATION REQUESTED FROM OTHER PERSONS If any information is to be supplied by other persons (e.g., spouse, relatives, friends, etc.), indicate name and address of each person, date on which the requested information was received, and subject matter involved. If none, state NONE.</p>			
<p>NAME AND ADDRESS</p>	<p>DATE OF RECEIPT</p>	<p>SUBJECT MATTER</p>	
<p>PART II - ADDITIONAL INFORMATION TO BE FURNISHED ONLY BY "SPECIAL GOVERNMENT EMPLOYEES" (Employees or part-time "advisors or consultants" as provided in Section III C of the DoD 1500.1 or implementing regulations)</p>			
<p>9. ESTIMATE THE NUMBER OF DAYS ON WHICH SERVICES ARE EXPECTED TO BE PERFORMED.</p>			
<p>a. WITH EMPLOYING DOD COMPONENT</p>	<p>b. WITH OTHER FEDERAL AGENCIES</p>	<p>c. SUM OF a AND b</p>	
<p>d. NUMBER OF DAYS WORKED FOR DOD DURING THE 365 DAYS PRECEDING DATE OF CURRENT ASSIGNMENT</p>	<p>e. NUMBER OF DAYS WORKED FOR EMPLOYING DOD COMPONENT DURING THE 365 DAYS PRECEDING DATE OF CURRENT ASSIGNMENT</p>		
<p>10. FEDERAL GOVERNMENT EMPLOYMENT List all other DOD Components and Federal agencies in which you are presently employed. If none, state NONE.</p>			
<p>COMPONENT OR AGENCY AND LOCATION</p>	<p>TITLE OR KIND OF POSITION</p>	<p>APPROXIMATE PERIOD From To</p>	<p>ESTIMATED NUMBER OF DAYS</p>
<p>I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief, and that I have read and understood the contents of DoD Directive 1500.1 as implemented by my employing DOD Component's regulations.</p>			
<p>SIGNATURE</p>		<p>DATE</p>	
<p>SUPERVISOR'S EVALUATION (Do not complete if not a DoD 1500.1 or implementing regulation)</p>			
<p>I have reviewed the above statement in light of the present and prospective duties of the individual to ensure that both present and expected conflicts of interest are avoided. My evaluation is:</p>			
<p><input type="checkbox"/> No affiliation/financial interests reported.</p>			
<p><input type="checkbox"/> Reported affiliation/financial interests are covered by assigned or prospective duties, and no conflicts appear to exist.</p>			
<p><input type="checkbox"/> Assigned duties require participation in matters involving or which may involve the following reported affiliation/financial interests. The conflict of interest can best be resolved by: <input type="checkbox"/> Change in assigned duties; <input type="checkbox"/> Divestment of the interest and relief of assignment from all related duties pending divestment.</p>			
<p><input type="checkbox"/> Disqualification; <input type="checkbox"/> Other (specify): A copy of my advice is attached. Nature of completed corrective action will follow.</p>			
<p><input type="checkbox"/> The following reported affiliation/financial interests are related to assigned or prospective duties, and have been determined by the appropriate supervising official to be not so substantial as to affect the integrity of the individual's service.</p>			
<p>A copy of this formal determination and rationale is attached.</p>			
<p><input type="checkbox"/> The prospective employee's duties will require participation in matters involving the following reported affiliation/financial interests, and the appropriate remedy is recommended and described in the following manner:</p>			
<p>SIGNATURE OF SUPERVISOR</p>		<p>PRINT OR TYPE NAME AND TITLE</p>	
		<p>DATE</p>	
<p>STANDARD OF COMPLEY COUNSELOR/DEPUTY COUNSELOR REVIEW (Do not complete if not a DoD 1500.1 or implementing regulation)</p>			
<p>As a duly designated counselor (or Deputy Counselor), I have examined the foregoing Statement and Evaluation.</p>			
<p><input type="checkbox"/> I concur with the supervisor's evaluation.</p>			
<p><input type="checkbox"/> I do not concur with the supervisor's evaluation and recommend the following action:</p>			
<p>SIGNATURE</p>		<p>DATE</p>	

Enclosure (2)

STATEMENT OF EMPLOYMENT (Regular Retired Officers)	
DATA REQUIRED BY THE PRIVACY ACT	
JURISDICTION:	37 U.S.C. 601 (c) and 6 U.S.C. 5532
PRINCIPAL PURPOSES:	Information is required from retired regular officers to enable Department of Defense personnel to determine whether such officers are engaged in activities prohibited by law or regulation, including those that could result in the loss of retired pay or a reduction in retired pay due to other Federal employment.
ROUTINE USES:	The information supplied on this form is forwarded to the Military Department in which the individual holds a retired status and is appropriately reviewed to assure compliance with applicable statutes and regulations.
DISCLOSURE:	Disclosure of the requested information is voluntary in the sense that no criminal penalties will follow from failure to file. However, the information requested by this form is required to enable the Department of Defense to implement 37 U.S.C. 601 (c) and 6 U.S.C. 5532. If the information is not provided, further investigation will ensue which may lead to the withholding of retired pay and the referral of the matter to the Comptroller General of the United States or other Federal agency.
1. I am a regular retired officer of the _____, and was retired on _____.	
(Department) (Date)	
2. I <input type="checkbox"/> am <input type="checkbox"/> am not employed. (If employed, or self employed, complete the rest of this item; if more than one employer, list complete information for each employer on a separate sheet)	
a. My employer's name and address is _____	
b. My employer sells, or offers for sale, to agencies (including nonappropriated fund activities) of the Department of Defense, the Coast Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service, the following types of products or services: _____	
3. If item 2.b is answered in the affirmative, complete this item:	
a. My position title is _____	
b. My duties are, briefly (a complete description of your job, a copy of your employment contract, or any other pertinent information, may be attached): _____	
c. My duties include one or more of the following activities in regard to an agency specified in item 2.b: (1) signing a bid, proposal, or contract, (2) negotiating a contract, (3) contacting an officer or employee of the agency for the purpose of (i) obtaining or negotiating contracts, (ii) negotiating or discussing changes in specifications, price, cost allowances, or other terms of a contract, or (iii) settling disputes concerning performance of a contract, or (4) any other liaison activity with a view toward the ultimate consummation of a sale even though the actual contract therefor is subsequently negotiated by another person. <input type="checkbox"/> No <input type="checkbox"/> Yes (If answered in the affirmative, attach explanatory details)	
4. I have received a copy of DoD Directive 5500.7 or the regulation issued by my department implementing that Directive.	
5. I will file a new Statement of Employment within 30 days after the information in this Statement has ceased to be accurate. I understand that if I have been retired for less than three years and have been employed by a defense contractor, I might also be subject to the requirement to file a Report of DoD and Defense Related Employment (DD Form 1787) pursuant to 50 USC 1436 and DoD Directive 7700.18.	
SIGNATURE _____	DATE _____
NAME (Typed or printed) _____	FILE/SSN _____

DD FORM 1357

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

Enclosure (3)

STUDY GUIDE APPENDIX D

True/False Test for Ethics and Standards of Conduct Training Course

Question Set #1

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|---|---|---|
| 1. SECNAVINST 5270.2G and DOD Directive 5500.7 applies to all Government employees and active duty military personnel including special Government employees and non appropriated fund personnel. | T | F |
| 2. A gratuity is any gift, favor, entertainment, hospitality, transportation, loan, any other tangible item or benefit given or extended to, or on behalf of, naval personnel or their spouses, minor children, or households, for which fair market value is not paid by the recipient or the U.S. Government. | T | F |
| 3. In case of doubt, concerning the propriety of an action or decision in terms of ethics or standards of conduct the person should review the applicable instructions. If the instruction is not clear as what to do, then person should attempt to make the best possible decision. | T | F |
| 4. A relative who works for a defense contractor asks for some information concerning the profit percentages used by another defense contractor. Since he is your relative you can give him the information. | T | F |
| 5. It is all right to accept any gift, gratuity, or favor from a sales representative or contractor as long as the value of the gift is less than \$5. | T | F |
| 6. Government employees and members of the military service may hold any kind of outside job. | T | F |
| 7. All Government employees, except special Government employees, are prohibited from using their grade, rank, title, or position in connection with any commercial enterprise or in endorsing any commercial product. | T | F |
| 8. Naval personnel shall not solicit a contribution from other DOD personnel for a gift to an official superior, make a donation or a gift to a superior or accept a gift from other DOD personnel subordinate to themselves. | T | F |
| 9. It is a good practice to develop strong personal friendships with sales representatives or contractors since they can sometimes help in obtaining needed material quickly. | T | F |

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|--|---|---|
| 10. A Government employee who is writing a book on his own time may use inside information associated with his job in this book. | T | F |
| 11. A Government employee needs Department of the Navy approval for Government material addressed in a book written on his own time. | T | F |
| 12. A former Government employee now works for a defense contractor. There is nothing wrong with him going to lunch with office personnel once a week. | T | F |
| 13. CDR Smith is a part time stock broker. It is allowable for him to solicit good stock buys for his office personnel. | T | F |
| 14. It is not proper for a defense contractor to buy lunch for a Government employee who is administering the defense contract of the contractor. | T | F |
| 15. Luncheons or dinners at a contractor's plant on an infrequent basis, when the conduct of official business within the plant will be facilitated and when no provision can be made for individual payment is allowable. | T | F |
| 16. Social activities engaged in by officials of the department officers in command or their representatives with local civilian leaders as part of a community relations program is allowable. | T | F |
| 17. It is recommended to utilize contractor provided transportation, while on local official business to save on Government expense. | T | F |
| 18. Acceptance of contractor provided transportation, meals or overnight accommodations in connection with official business may only be authorized by the order issuing authority. | T | F |
| 19. Participation by DOD personnel in a community little league which is sponsored by a defense contractor is prohibited. | T | F |
| 20. It is not proper to participate in a football pool at work. | T | F |
| 21. Government facilities, property, and manpower may be used only for official Government business. | T | F |

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| 22. | If the above question (21) is true then the use of a Government facility by a church or community group is prohibited. | T | F |
| 23. | All retired military personnel and all members of reserve components not on active duty, are permitted to use their military titles in connection with commercial enterprises. | T | F |
| 24. | An active duty officer of the regular Navy or Marine Corps may not be employed by any persons furnishing Naval supplies or war materials to the United States and continue to receive his service pay. | T | F |
| 25. | No enlisted member of the armed forces on active duty may be permitted to leave his post to engage in a civilian pursuit or business for hire if the business interferes with regular employment or local civilians in their art, trade or profession. | T | F |

True/False Test for Ethics and Standards of Conduct Training Course

Question Set #2

- | | | |
|---|---|---|
| 1. A Government employee may not take part in any political campaign. | T | F |
| 2. There is nothing wrong with a Government employee buying stock in a defense company which is just about to be awarded a large defense contract. | T | F |
| 3. Concerning conflicts of interest, DOD and the Navy are only concerned with the affiliations and financial interests of the Government employee. | T | F |
| 4. Receipt of an unusual gratuity (retail value more than \$5) shall not be reported unless a contractor attempts to influence the Government employee. | T | F |
| 5. Membership in the local Klu Klux Klan (KKK) is permitted to all Government employees. | T | F |
| 6. Anyone may be given a ride in a Government vehicle. | T | F |
| 7. Review of the Navy's Standards of Conduct Instruction 5370.2G and DOD's Directive Standards of Conduct 5500.7 is required annually by all DOD personnel. | T | F |
| 8. All GS-16 and above, military officers O-7 and above, commanding officers, executive officers, and all DOD personnel working in Government procurement must fill out the "Confidential Statement of Affiliations and Financial Interests (DD Form 1555). | T | F |
| 9. Once the annual DD Form 1555 is filled out and filed there is no need to file another DD Form 1555 upon transfer or reassignment from one billet or position to another. | T | F |
| 10. The DD Form 1555 is just a bureaucratic piece of paper since it is locally held by the supervisor. | T | F |
| 11. The DD Form 1555 filing deadline may be extended to a maximum of thirty days when approved by the supervisor. | T | F |
| 12. All regular officers must file their initial statement of employment (DD Form 1357) within thirty days after retirement. | T | F |

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| 13. Although the information contained in the DD Form 1555 is confidential, information from it may be disclosed, as a routine use, to federal officials who require access to the information and who are listed in the applicable system of records notice required under the Privacy Act, and the Freedom of Information Act. | T | F |
| 14. Prior to approving nominees for appointment to O-8 or O-9, the Secretary of the Navy must ensure that each nominee has the current DD Form 1555 on file. | T | F |
| 15. The DD Form 1555, once filed, does not permit Naval personnel to participate in matters in which their participation is prohibited by regulation. | T | F |
| 16. The Chief of Naval Operations and the Commandant of the Marine Corps shall provide to all military personnel an oral briefing regarding the provisions of the standards of conduct instruction regardless of the program in which they are participating or their duty station. This briefing shall be given as part of their initial training or upon the assumption of duties following initial appointment or enlistment. | T | F |
| 17. All personnel required to fill out the DD Form 1555 must do so without any exclusion to the contrary. | T | F |
| 18. All Navy personnel who work in the procurement area are required to receive a copy of SECNEAVINST 5370.2G and an oral briefing regarding the provisions of this instruction preceeding employment or upon assumption of duties. | T | F |
| 19. The Director of Civilian Personnel shall ensure that all Navy civilian personnel receive a copy of "Standards of Conduct," SECNAVINST 5370.2G and an oral briefing regarding the provisions of this instruction preceeding employment or upon assumption of duties. | T | F |
| 20. Each retired regular officer of the Navy and the Marine Corps must keep the Department of the Navy advised of his post retirement employment activities. | T | F |
| 21. This requirement to keep DON advised of his post-retirement employment ends on the third anniversary of his retirement. | T | F |

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|--|---|---|
| 22. A retired Regular officer is prohibited, at all times, from representing any person in the sale of anything to the Government. | T | F |
| 23. The financial interest of a spouse, minor child, or other member of the Government employee's immediate household is considered to be treated the same as the financial interest of the Government employee. | T | F |
| 24. Upon release from Government employment a person may not represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of this person's official responsibility during the last year of his Government service. | T | F |
| 25. It is recommended that Regular officers whose expertise lie in the procurement area not accept employment with defense contractors due to potential conflicts of interest. | T | F |

STUDY GUIDE APPENDIX E

True/ False Test for Ethics and Standards of Conduct Training Course

Questions and Answers, Set #1

1. SECNAVINST 5370.2G and DOD Directive 5500.7 applies to all Government employees and active duty military personnel including special Government employees and non appropriated fund personnel.

True. SECNAVINST 5270.G 4(a)
DOD Directive 5500.7 IIA

2. A gratuity is any gift, favor, entertainment, hospitality, transportation, loan, any other tangible item or benefit given or extended to, or on behalf of, naval personnel or their spouses, minor children, or households, for which fair market value is not paid by the recipient or the U.S. Government.

True. SECNAV 5370.2G 4(d)

3. In case of doubt, concerning the propriety of an action or decision in terms of ethics or standards of conduct the person should review the applicable instructions. If the instruction is not clear as what to do, the person should attempt to make the best decision.

False. In cases of doubt the Naval personnel shall consult legal counsel or, if appropriate, a Standards of Conduct Counselor or Deputy Counselor to ensure the proper and lawful conduct of naval programs and activities. SECNAV 5370.2G 5a (4)

4. A relative who works for a defense contractor asks for some information concerning the profit percentages used by another defense contractor. Since he is your relative you can give him the information.

False. Naval personnel shall avoid any action which might result in or reasonably be expected to create the appearance of giving preferential treatment to any person or entity. SECNAV 5360.2G 5b (2)

5. It is all right to accept any gift, gratuity, or favor from a sales representative or contractor as long as the value of the gift is less than \$5.

False. One may accept unsolicited advertising items of nominal or trivial value, but one may not accept an outright gift. Although there are minor exceptions, a safe rule would be not to accept anything more valuable than a cup of coffee.
SECNAV 5370 2G 6g (2) (b)

6. Government employees and members of the military service may hold any kind of outside job.

False. DOD and Naval personnel shall not engage in outside employment that interferes with the performance of their Government duties, or may reasonably expect to bring discredit on the Government or the Department of the Navy.

7. All Government employees, except special Government employees, are prohibited from using their grade, rank, title, or position in connection with any commercial enterprise or in endorsing any commercial product.

True. SECNAV 5370.2G 1 (1)

8. Naval personnel shall not solicit a contribution from other DOD personnel for a gift to an official superior, make a donation or a gift to an official superior, or accept a gift from other DOD personnel subordinate to themselves.

True. However, there is no prohibition on voluntary gifts or contributions of a nominal value on special occasions such as marriages, illness, transfer or retirement, provided any gifts acquired with such contributions shall not exceed a reasonable value SECNAV 5370.2G 5j

9. It is a good practice to develop a strong personal friendship with sales representatives or contractors since they can sometimes help in obtaining needed material quickly.

False. Naval personnel should at all times not allow themselves to be placed in a position in which a conflict of interests might arise or might justifiably be suspected. SECNAV 5370.2G 5d

10. A Government employee who is writing a book on his own time may use inside information associated with his job in this book.

False. Naval personnel shall not use, directly or indirectly, inside information to further a private gain for themselves or others if that information is not generally available to the public and was obtained by reason of their DOD positions. SECNAV 5370.2G 6b

11. A Government employee needs Department of the Navy approval for Government material addressed in a book written on his own time.

False. Unless there is definite DON position on a matter addressed in the appearance or writing and the individual has been authorized by appropriate superior authorities to present that position officially, he shall expressly present his views on the matter as his own and not as those of the Department of the Navy or DOD. SECNAV 5370.2G (6) (2)

12. A former Government employee now works for a defense contractor. There is nothing wrong with him going to lunch with the office personnel once a week.

False. Although there may not be any actual conflict of interest DOD personnel will not knowingly deal with former military or civilian personnel if such action will result in a violation of a statute or policy set forth in DOD Directive 5500.7. The fact that there is an appearance of conflict of interest may be enough to cause difficulties in the future. DOD 5500.7 IV B

13. CDR Smith is aprt time stock broker. It is allowable for him to solicit good stock buys to his office personnel.

False. Military personnel on active duty are prohibited from personal commercial selection and sale to military personnel junior in rank or grade, at any time, on or off duty, in or out of uniform.

14. It is not proper for a defense contractor to buy lunch for a Government employee who is administering the defense contract of the contractor.

True. DOD 5500.7 VI A & B

15. Luncheons or dinners at a contractor's plant on an infrequent basis when the conduct of official business within the plant will be facilitated and when no provision can be made for individual payment is allowable.

True. DOD 5500.7 VI B (3)

16. Social activities engaged in by officials of the department and officers in command or their representatives with local civilian leaders as part of a community relations program is allowable.

True. DOD 5500.7 VI B (11)

17. It is recommended to utilize contractor provided local transportation while on official business to save on Government expense.

False. Contract or provided local transportation can only be used when alternative arrangements are clearly impractical. DOD 55..7 VI B (12)

18. Acceptance of contractor provided transportation, meals or overnight accomodations in connection with official business may only be authorized by the order issuing authority.

True. DOD 5500.7 C

19. Participation by DOD personnel in a community little league which is sponsored by a defense contractor is prohibited

False. As long as the relationship with the defense contractor can reasonably be characterized as remote. DOD 5500.7 VI B (13)

20. It is not proper to participate in a football pool at work.

True. Employees are prohibited from gambling on duty or on Government property. This includes lotteries or betting pools. DOD 5500.7 XI

21. Government facilities, property, and manpower may be used only for official Government business.

True. DOD 5500.7 VIII

22. If the above question (21) is true then the use of a Government facility by a church or community group is prohibited.

False. This is not intended to preclude the use of Government facilities for activities which would further military-community relations provided they do not interfere with military missions. DOD 5500.7 VIII

23. All retired military personnel and all members of reserve components not on active duty, are permitted to use their military titles in connection with commercial enterprises.

True. Provided such use does not cast discredit on the military service or DOD. DOD 5500.7 IX B

24. An active duty officer of the regular Navy or Marine Corps may not be employed by any persons furnishing Naval supplies or war materials to the United States and continue to receive his service pay.

True. DOD 5500.7 X C

25. No enlisted member of the armed forces on active duty may be permitted to leave his post to engage in a civilian pursuit or business for hire if the business interferes with regular employment of local civilians in their art, trade or profession.

True. DOD 5500.7 X B

True/False Test for Ethics and Standards of Conduct Training Course

Questions and Answers, Set #2

1. A Government employee may not take part in any political campaign.

False. There are many political matters an employee may participate in, such as running for a non-partisan office. The following references discuss restrictions on political activities of DOD and Naval personnel:

Federal Personnel Manual, Chapter 733

Bureau of Naval Personnel Manual, Article 6210240

Marine Corps Manual, Paragraph 1742

2. There is nothing wrong with a Government employee buying stock in a defense company which is just about to be awarded a large defense contract

False. Information learned on the job may not be used for personal financial gain. Even if the Government employee had no inside information the appearance that he did would be enough to constitute a conflict of interest. SECNAV 5370.2G 2(b)

3. Concerning conflict of interest, DOD and the Navy are only concerned with the affiliations and financial interests of the Government employee.

False. Concerning conflicts of interest, the private interests of a spouse, minor child, and any household member are treated as the private interests of the naval personnel. SECNAV 5370.2G 6(a)

4. Receipt of an unusual gratuity (retail value more than \$5) shall not be reported unless a contractor attempts to influence the Government employee.

False. Receipt of unusual gratuities and the circumstances surrounding the receipt shall be promptly reported to the appropriate supervisor for a determination as to the proper disposition. SECNAV 5370.2G 6(g)(3)

5. Membership in the local Klu Klux Klan (KKK) is permitted to all Government employees.

False. All DOD personnel must avoid activities or associations that are incompatible with their official Government position. DOD 5500.7 IV C

Since the KKK does not believe in equal opportunity for all minorities they are in direct contradiction to official Government procurement regulations.

6. Anyone may be given a ride in a Government vehicle.

False. DOD personnel will not directly or indirectly use Government property of any kind, including property leased to the Government, for other than officially approved activities.
DOD 5500.7 VIII

7. Review of the Navy's Standards of Conduct Instruction, SECNAVINST 5370.2G and DOD's Standards of Conduct, DOD Directive 5500.7 is required annually by all naval personnel.

False. Will be reviewed at least semi-annually.
SECNAV 5370.2G 8(c)(1) DOD 5500.7 XIII

8. All GS-16 and above, military officers O-7 and above, commanding officers, executive officers, and all DOD personnel working in Government procurement must fill out the "Confidential Statement of Affiliations and Financial Interests" (DD Form 1555)

False. The following personnel are required to submit the DD Form 1555:

- a. GS-16 and above
- b. military officers O-7 and above
- c. CO's, XO's of shore installations with 500 or more military and civilian personnel
- d. GS-13 and above, military officers O-5 and above whose basic duties include signing, negotiating, recommending or approving, auditing or supervision of auditing of Government contracts. SECNAV 5370.2G 9(a)

9. Once the annual DD Form 1555 is filled out and filed there is no need to file another DD Form 1555 when transferred or reassigned from one billet or position to another.

False. Upon transfer or reassignment from one billet or position to another for which the filing of a statement is required, an officer or employee shall file a current statement promptly with the appropriate supervisor of his new billet or position
SECNAV 5370.2G 9(b)(1)

10. The DD Form 1555 is just another bureaucratic piece of paper since it is locally held by the supervisor.

False. The Under Secretary of the Navy is responsible for notifying the Office of the Secretary of Defense Standards of Conduct Counsellor no later than 31 December of each year that all required DD Form 1555's have been filed and reviewed, with all problems appropriately resolved, or explanation provided of the outstanding cases. SECNAV 5370.2G 9(b)(2)

11. The DD Form 1555 filing deadline may be extended to a maximum of thirty days when approved by the supervisor.

True. SECNAV 5370.2G (9) (b) (3)

12. All regular officers must file their initial statement of employment (DD Form 1357) within thirty days after retirement.

True. SECNAV 5370 2G (12)

13. Although the information contained in the DD Form 1555 is confidential, information from it may be disclosed, as a routine use, to federal officials who require access to the information and who are listed in the applicable system of records notice required under the Privacy Act, and the Freedom of Information Act.

True. SECNAV 5370. 2G (9) (e)

14. Prior to approving nominees for appointment to O-8 or O-9, the Secretary of the Navy must ensure that each nominee has a current DD Form 1555 on file.

True. SECNAV 5370.2G (9) (g) (2)

15. The DD Form 1555, once filed does not permit Naval prsonnel to participate in matters in which their participation is prohibited by regulation.

True. SECNAV 5370 2G (9) (i)

16. The Chief of Naval Operations and the Commandant of the Marine Corps shall provide to all military personnel an oral briefing regarding the provisions of the Standards of Conduct instruction regardless of the program in which they are participating or their duty station. This briefing shall be given as part of their initial training or upon the assumption of duties following initial appoinment or enlistment.

True. SECNAV 5370.2G (10)

17. All personnel required to fill out the DD Form 1555 must do so without any exclusion to the contrary.

False. The commanding officer may determine that submission of the DOD Form 1555 is not necessary because of :

- (a) the remoteness of any impairment of the integrity of the Government
- (b) The degree of supervision and review of the incumbants work. SECNAV 5370.2G (9) (k)

18. All Navy personnel who work in the procurement area are required to receive a copy of SECNAVINST 5370.2G and an oral briefing regarding the provisions of this instruction preceeding employment or upon assumption of duties.

True. SECNAV 5370.2G (10)

19. The Director of Civilian Personnel shall ensure that all Navy personnel receive a copy of "Standards of Conduct," SECNAVINST 5370.2G and an oral briefing regarding the provisions of this instruction preceeding employment or upon assumption of duties.
20. Each retired regular officer of the Navy and the Marine Corps must keep the Department of the Navy advised of his post-retirement employment activities.

True. SECNAV 5370.2G (12) (a)

21. This requirement to keep DON advised of his post-retirement employment ends on the third anniversary of his retirement.

False. Although the information is voluntary, if the information is not provided, further investigation will ensure which may lead to the withholding of retired pay and the referral of the matter to the Comptroller General of the United States or other Federal Agencies. DD Form 1357 Statement of Employment.

22. A retired Regular officer is prohibited, at all times, from representing any person in the sale of anything to the Government.

False. He is only prohibited in the sale of material to the Government throught the Military Department in whose service he holds a retired status. SECNAV 5370.2G Encl (1) VII(A) (2a)

23. The financial interest of a spouse, minor child, or other member of the Government employee's immediate household is considered to be treated the same as the financial interest of the Government employee.

True. DOD XV (J)

24. Upon release from Government employment a person may~~not~~ represent anyone other than the United Ststes in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of this person's official responsibility during the last year of his Government service.

True. DOD XVI (C) (2b)

25. It is recommended that Regular officers whose expertise lie in the procurement area not accept employment with defense contractors due to potential conflicts of interest.

False. Neither SECNAVINST 5370 .2G nor DOD Directive 5500.7 preclude a Regular officer from accepting employment with a defense contractor. Although, there are certain rules and prohibitions that must be followed, they should in no way affect the future career of the retired Regular officer.

STUDY GUIDE APPENDIX F

GRATUITIES AND FAVORS

Case Solution #1

This case is an excellent example of a gratuity bestowed on a Government employee that involves extenuating circumstances. DOD Directive 5500.7 defines gratuity as:

Any gift, favor, entertainment, hospitality, transportation, loan, any other tangible item, and any intangible benefit given or extended to, or on behalf of, DOD personnel or their spouses, minor children, or households, for which fair market value is not paid by the recipient or the U.S. Government.

There is not doubt that a gratuity has been bestowed.

According to the test of an illegal gratuity this situation fails on at least two counts:

- a. There is an appearance that the situation may lead to the Government's inability to be impartial in the future.
- b. This situation may lead one to believe that preferential treatment may be given to ABC in the future.

It is felt that Smith should do the following:

- a. Call Jones and determine if the gift was purchased with Jones' personal funds or ABC's funds. If purchased with personal funds, explain to Jones that although it was a nice thought, the potential embarrassment of a conflict of interest would do neither of them any good. Ask him to limit his gift to only a card in the future. If, however, the gift was purchased with ABC's funds, point out the apparent conflict of interest situation that has been generated.
- b. If purchased with personal funds, explain that the fruit really should be sent back; however, since the gift was from a personal friends, let Jones decide whether the fruit should be sent back. (Either Jones or Smith can pay the freight.) If purchased with ABC funds, send the gift back immediately. (Smith pays the freight charge with return receipt requested.)

Smith's action should be the same no matter if the gift was for an anniversary or a birthday.

Again, recommend to Jones that in the future to send only cards and keep the fruit.

GRATUITIES AND FAVORS

Case Solution #2

1. Before going into what action CDR Ford should take, let us look at the situation through DOD Directive 5500.7.

- a. The calculators, pens and zippered briefcases are gratuities in accordance with DOD 5500.7 VI B: "any tangible item...given or extended to on behalf of the recipient...."
- b. The situation is in violation of DOD 5500.7 A: "DOD personnel will not solicit or accept any gift, gratuity...either directly or indirectly from any person, firm, coproration...which is engaged...in procurement activities or business or financial transactions of any sort with any agency of DOD...."
- c. In addition, the situation, according to DOD 5500.7 IV F, appears to give the impression of prejudicial conduct by the Government by creating the appearance of:
 - (1) giving preferential treatment
 - (2) Government losing its impartiality
 - (3) loss of Government integrity

CDR Ford should take the following action:

- a. Collect all the gratuities for return to Gizmo Widgets.
 - b. Call the sales representative at Gizmo's and explain why the items are being returned and tell him that such occurrences are not to happen again.
 - c. Conduct a training lecture on "Acceptance of Gratuities and Favors" (recommend use of this guide) reaffirming the restrictions found in DOD 5500.7).
2. In order to remain completely impartial and not appear to give preferential treatment to anyone, it is recommended that none of the items be kept. However, DOD 5500.7 VI B(5) does allow acceptance of specialty advertising items of trivial

intrinsic value which is interrupted to mean that the pens
may be kept without a risk of conflict.

STUDY GUIDE APPENDIX G

CONFLICT OF INTEREST

Case Solution #1

Under the Conflict of Interest laws section, DOD 5500.7 XVI 2(C), Jeff is prohibited from participating in his Government capacity (contracting officer) in any matter in which he, his spouse...has a financial interest (employment as a private secretary for the Finance Director). Instead of participating in the negotiations, he must promptly disqualify himself in accordance with DOD 5500.7 XVI 4. Jeff must promptly notify CAPT Seabag, his superior, of the reason for his disqualification and make a full disclosure of his financial interest, in this case the position and salary of his wife. Unless CAPT Seabag makes a written determination, prior to the start of the negotiating, that the interest is not so substantial as to be deemed likely to affect the integrity of the Government, he must reassign the negotiation to someone else and this person must not be subordinate to Jeff Powers.

CONFLICT OF INTEREST

Case Solution #2

Dick Schauer appears to be concerned about DOD 5100.7

VI B(3) which states:

Luncheons or dinners at a contractor's plant on an infrequent basis is allowed, when the conduct of official business within the plant will be facilitated and when no provision can be made for individual payment.

This situation is an either-or situation. From the situation we know that Schauer is unable to pay for his meals and there is insufficient time for him to obtain his meals elsewhere. Since Dick Schauer is not conducting official Government business as an instructor there is no apparent conflict of interest. However, as a procurement branch head Schauer is justified in feeling uneasy about the situation. The free meals can be construed to give the impression of a conflict of interest.

In this situation it is how Schauer feels about the situation which is important. If he feels uneasy about the free meals he should either pack his dinner in a brown bag or just wait until he gets home for class for dinner.

As to the upcoming negotiations, remaining at "arm's length" from the contractor is always an excellent policy to maintain.

STUDY GUIDE APPENDIX H

ACTUAL VERSUS APPEARANCE

Case Solution #1

The first question to ask is whether there is really a problem here. Mr. Short appears to have financial difficulties but with the possible exception of Mr. Short's own complaints there is no evidence to support this claim. As a supervisor, it is LT Swegle's responsibility to see if there is any evidence to support this claim. As to whether LT Swegle can withhold this transfer based on this circumstantial evidence is doubtful. It is LT Swegle's obligation to put the best people in the right positions. Mr. Short should be given a chance at the new position if he is the one best qualified. He should be counseled concerning the problems of the position and then given full responsibility as if the financial problem never existed.

What if there was substantial evidence that Mr. Short did have serious financial difficulties? What could LT Swegle do in this situation?

LT Swegle should counsel Mr. Short about his financial difficulties referencing DOD 5500.7 XII which states that DOD personnel shall pay each just financial obligation in a proper and timely manner. He should also stress to Mr. Short that these difficulties can ultimately lead to problems which could affect his employment or promotional opportunities.

As to consideration for the new position he should be given a fair and impartial consideration based on his performance. If selected for the job, he should be counseled in order to be effective, both in real and appearance; he should attempt to clear up his financial problems as soon as possible.

ACTUAL VERSUS APPEARANCE

Case Solution #2

Wright's reply will require some tact and some probing. Is Bass a sly sales rep who is trying to get preferential treatment for his company (violation of DOD 5500.7 IV F (2)) or is he just naive to the Government's procurement requirements? In either case Wright must explain that the Government is prohibited from preferential treatment.

Although in the first question there is a clear attempt to cause a conflict of interest to exist; the second question may not be so apparent. It is true that DOD 5500.7 XVI D(1)(d) states that a retired regular officer may not, at any time, sell anything to the department in whose service he holds a retired status. However, nowhere in the case did he ever say he was a retired officer. If he is a retired enlisted man, the restriction does not apply in accordance with DOD 5500.7 XVI C(1). Wright is going to have to find out before proceeding.

VI. CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS

The following conclusions are drawn from the information and data presented in this paper.

1. DOD's standards of conduct, as presently contained in current regulations, provide the necessary guidance to procurement personnel to prevent the development of conflict of interest violations.

Evidence supports the contention that the standards of conduct are presently sufficient to meet the daily challenges of conflict of interest situations found in defense procurement. It is assumed that part of the success of the standards is a result of a strong commitment by DOD procurement personnel who support high ethical standards.

2. A standards of conduct study guide could be developed to amplify the standards in order to make them more relevant to the daily ethical challenges found in Government procurement.

Although the standards in themselves are presently sufficient to the needs of Government procurement, there is a requirement to expand the standards of conduct so that they are more meaningful and relevant to Government procurement personnel. Procurement personnel should be knowledgeable and comfortable with all aspects of their positions and the laws and regulations that direct their actions. The standards of

conduct study guide provided in Chapter V was developed to meet these needs in a way that would be relevant to ethical situations which Government procurement personnel may find themselves.

3. There is an indication that Government personnel involved in non-appropriated fund procurement are experiencing difficulties in preventing conflict of interest violations from developing.

Although substantial evidence is lacking to prove this conclusion, there are indications from a GAO report that more attention needs to be paid to the standards of conduct regulations by those involved.

B. RECOMMENDATIONS

The following recommendations are based on the result of this paper.

1. That the Information to Personnel, Paragraph XIII A of DOD Directive 5500.7 be amended to more accurately definitize the requirement that the standards of conduct "be brought to the attention of all DOD personnel."

All DOD procurement personnel should be aware of the relevant contents of the standards of conduct. Semi-annually passing the instruction around for individual review and signature is a poor substitute for training. There is a need for procurement personnel to be trained in this area since it is as important, if not more so, than the policies and procedures that regulate their daily effort.

2. That the study guide produced in this report be used at the option of management by all defense procurement activities as a guide to train Government procurement personnel in the standards of conduct.

3. That a study be initiated to determine if the standards of conduct are deficient in preventing conflict of interest violations in non-appropriated fund procurement.

APPENDIX A

KEY DEFINITIONS/ABBREVIATIONS

Gratuity. Any gift, favor, entertainment, hospitality, transportation, loan, any other tangible item, and any intangible benefit given or extended to, or on behalf of, DOD personnel or their spouses, minor children, or households, for which fair market value is not paid by the recipient or the U. S. Government

Special Government Employee. A person who is retained, designated, appointed, or employed to perform, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, temporary duties, on either a full-time or intermittent basis.

DAR - Defense Acquisition Regulations

DOD - Department of Defense

FOI - Freedom of Information

GAO - General Accounting Office

HEW - Department of Health, Education and Welfare

JAG - Judge Advocate General

OGE - Office of Government Ethics

SECNAV - Secretary of the Navy

APPENDIX B

CODE OF ETHICS FOR GOVERNMENT SERVICE (Congressional Resolution 175)

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.
2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.
3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.
4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.
6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.
7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.
8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
9. Expose corruption wherever discovered.
10. Uphold these principles, ever conscious that public office is a public trust.

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The following is a list of the names of the persons who have been named in the above-mentioned document.

1. The first name is "John" and the second name is "Doe".